

## **EXHIBIT A**

Michael Devin Floyd  
1214 Mount Hermon Rd  
Scotts Valley, CA 95066  
mdf3039@gmail.com  
(713)562-7229

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
**07/03/2023 at 03:29:47 PM**  
By: Darnekia Oliver,  
Deputy Clerk

Michael Devin Floyd, IN PRO PER

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA  
UNLIMITED JURISDICTION**

Michael Devin Floyd	) Case No.: 23CV037550
	)
Plaintiff(s),	) <b>COMPLAINT FOR VIOLATION OF</b>
	) <b>CALIFORNIA LAWS AND TORTS,</b>
vs.	) <b>AND FOR VIOLATION OF</b>
	) <b>CIVIL RIGHTS (non-prisoner)</b>
	) <b>UNDER 42 U.S.C. § 1981,</b>
Planet Fitness of Oakland, CA	) <b>42 U.S.C. § 2000</b>
610 Hegenberger Rd	)
Oakland, California 94621	) <b>DEMAND FOR JURY TRIAL.</b>
	)
Defendant(s).	

**I. Jurisdiction and Venue**

This Court has jurisdiction over the matter because most of the acts complained of occurred in Oakland, California. This is also the location where the business transaction between the Plaintiff and Defendant occurred. The Defendant entity

1 named in this litigation is present and operating within the jurisdictional limits of the  
2 County of Alameda. Subject matter jurisdiction within the Unlimited Division of the  
3 Superior Court because the amount in dispute exceeds \$25,000.

4 Venue is proper because most of the acts and omissions complained of in this  
5 litigation took place here. Venue is also proper because this is also the judicial district  
6 where the business transaction between the Plaintiff and Defendant occurred.

## 7 **II. The Parties**

8 Michael Devin Floyd is a resident of California.

9 Planet Fitness of Oakland, CA on Hegenberger Rd is a public business  
10 establishment within the County of Alameda. It is a gym facility.

## 11 **III. Statement of Claim**

12 A. Where did the events giving rise to your claim(s) occur?

13 The event occurred at Planet Fitness gyms located in the Bay Area, CA. Most  
14 of the incidents occurred at Planet Fitness of Oakland, CA on Hegenberger Rd.

15 B. What date and approximate time did the events giving rise to your claim(s)  
16 occur?

17 All events occurred between July 1st, 2021 and December 30, 2021.

18 C. What are the facts underlying your claim(s)?

19 Before filing this action, the Plaintiff requested and filed for arbitration through  
20 the American Arbitration Association. Unfortunately, the Defendants did not  
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1 provide their fees to the AAA; the AAA then requested the Plaintiff file the  
2 matter in a court with jurisdiction, canceling/dismissing the arbitration. The  
3 Plaintiff will provide the summaries of events at Planet Fitness before the  
4 Oakland membership and during the Oakland membership below. The  
5 necessary exhibits for factual context will be attached to the complaint when  
6 filing.

### 7 **Bay Area incidents before Oakland membership**

8 I opened a gym membership at Planet Fitness in Jacksonville, Florida on  
9 February 13, 2019. This Black Card membership gave me access to all Planet  
10 Fitness gyms worldwide and I used it to my advantage frequently, working out  
11 in multiple states and dozens of cities. (Exhibit 1) Since 2019, I have  
12 experienced no incidents at Planet Fitness significant enough for reprimand  
13 from the Jacksonville gym until I arrived in California in July 2021. While  
14 visiting family members in California, I used the Planet Fitness on White Road  
15 in San Jose. This is where the first incident occurred. I was soon contacted by  
16 my home gym in Florida concerning the incident. Without informing me there  
17 is a problem, a staff member at the White Road Planet Fitness informed HR at  
18 my home gym in Florida that there is a complaint about my vulgarity and  
19 personality. No member on White Road told me I caused problems nor did I  
20 cause problems. I went back to the gym on White Road to solve this issue. I  
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1 was told by the staff that I was no longer allowed there, but they did not  
2 provide any further details on the problem I caused. HR at my home gym  
3 requested that I not visit that gym anymore. I agreed, since there are other  
4 gyms in the vicinity.

5 Approximately one month later, other incidents occurred at gyms in the  
6 nearby area. (Exhibit 2). I wrote the problems down in Exhibit 2 after they  
7 occurred. I was soon contacted by my home gym in Florida once again. They  
8 informed me that my membership was canceled due to the problems in  
9 California. After several phone calls and emails with HR, they came to the  
10 conclusion I've experienced too many problems within California and that I  
11 could renew the membership once I leave California. I will provide the emails I  
12 received from the Jacksonville location (Exhibits 3,4). Rakesh was the manager  
13 at that location at the beginning of these problems (July). I spoke with him  
14 often until he moved to New York sometime in late August or early September.  
15 Then, I spoke with Marisa.

16 I've been consistently working out since 2010, using several commercial and  
17 university gyms. I've never experience a significant problem at any gym until  
18 my 2021 visit to California.

19 **Bay Area incidents during Oakland membership**  
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1 I opened another gym membership at Planet Fitness in Oakland, California  
2 on September 17, 2021. (Exhibit 5). This came after my membership was  
3 canceled at the Planet Fitness in Jacksonville, Florida. From the beginning of  
4 this Oakland membership, I decided to keep a low profile. I felt that something  
5 strange around me is happening. At this time, I was forced to reside in the Bay  
6 Area until matters in the Santa Clara Superior Court cleared up. The gym is a  
7 staple of my life and I needed the stability. So, I made it a priority to not cause  
8 problems. I do not typically run into trouble, so keeping an even lower profile  
9 should have been easy to maintain. Also, even though this Oakland  
10 membership included access to all Planet Fitness locations nationwide, I  
11 decided to not revisit any of the Bay Area gyms I previously had problems  
12 with.

13 But this was not enough, unfortunately. I began to feel like people were  
14 watching me. By people, I meant gym members and gym staff members.  
15 Although no gym members nor staff reported to me that I harassed them or  
16 caused them problems, this was reported in the Planet Fitness computer  
17 system. (Exhibits 6).

18 The first incident reported on October 13, 2021, about me slamming weights  
19 down. (Exhibit 6). I remember this incident. I was using the Smith Machine for  
20 deadlifts. A staff member approached me and requested that I not slam the  
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1 weights. I obliged and told her I would be more careful. As I've mentioned, I  
2 have worked out for more than 10 years without any person requesting me to  
3 not slam the weights. I obliged anyhow. Although I was careful, the same staff  
4 member approached me again and claimed I was slamming the weights down. I  
5 noticed a slyness about her demeanor. It seemed like she was determined to put  
6 me at fault for something. As I've mentioned, I was deadlifting as quiet as  
7 possible. There was more than 300 pounds on the Smith Machine, so any  
8 dropping of the weights would make some noise, even if that drop was  
9 assisted. I showed the staff member what I was doing and why it would make  
10 some noise, regardless of how I performed. Still she reported this.

11 The next incident reported was days later on the 16th. (Exhibit 6).  
12 Apparently, the Director of Operations Brandon Romero asked the gym staff to  
13 watch me carefully. This is very peculiar, since I emailed Brandon Romero  
14 multiple times, requesting he contact me. Planet Fitness had evidence that was  
15 crucial to my court proceedings in Santa Clara Superior Court. Since August  
16 20th, I've been calling Planet Fitness, requesting this evidence. I even hired a  
17 private investigator to attempt to retrieve the evidence. I needed video  
18 surveillance of the parking lot of Planet Fitness on Saratoga Ave in San Jose,  
19 CA on August 18, 2021. Finally, I was provided with Brandon Romero's email  
20 address. I consistently emailed Brandon Romero, asking for this evidence,  
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1 unknowing he had requested his staff to keep tabs on me. (Exhibits 7,8). I  
2 never received a response from Brandon. I may have received a phone number  
3 as well that I frequently dialed, attempting to get in contact with Brandon.

4 The next incident reported about me came on November 10th. (Exhibit 6). As  
5 I've mentioned, since the early stages of this Oakland membership, I felt like  
6 people were watching me closely. There were some weird conversations and  
7 encounters with people that made me believe those people were attempting to  
8 get me in trouble. This situation is an example. As I was leaving the gym,  
9 finished my workout, a staff member said "Have a good day, bum." I turned  
10 around and asked if she called me a bum. She replied that she did not. This  
11 does not even seem relevant to report, but it was reported in their computer  
12 system. (Exhibit 6). I am confident she called me a bum.

13 The next report happened on December 1st. (Exhibit 6). The report states  
14 there have been multiple incidents where people in the gym felt uncomfortable,  
15 yet there are no specific details. The only detail given was me tapping a staff  
16 member on her shoulder. I remember attempting to get past a staff member and  
17 touching her shoulder in the process, while also greeting her and saying excuse  
18 me. I believe she greeted me as well. I saw her twice before I left and she did  
19 not tell me she had a problem with me. Never mentioned she did not want me  
20 to touch her on her shoulder. In fact, I did not even know this was a problem  
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1 until I saw the notes in their computer system on December 30, 2021. But,  
2 there is a report in their computer system that I caused a problem with her  
3 when I touched her on her shoulder. The report also stated that I looked at girls  
4 doing squats and talked with them. This is normal behavior. No girl stated that  
5 I caused a problem or felt harassed by my behavior. I do not even believe a  
6 woman told staff members they had a problem with me. I am confident this is  
7 other people, attempting to keep records on me and cause me problems.

8 The next incident was on December 14th. (Exhibit 6). Staff members  
9 requested that I take a photo, since it does not appear in their system. Because  
10 of the many strange incidents happening during my visits in the gym, and  
11 because I felt like people were attempting to cause problems, I did not want to  
12 take a photo. Photo requests started happening around this time, December  
13 14th. I started this membership 3 months ago and went without a photo for this  
14 period. There were multiple other gyms that told me that I did not have a photo  
15 on file. I asked staff members at each gym if it was a requirement. They said it  
16 was not required. I then stated that if it was not required, then I would like to  
17 proceed without a photo being taken. They told me that it was okay. Yet, here  
18 this note is in their computer system by staff member Majenta. This note comes  
19 from Planet Fitness on Ranch Dr. in Milpitas, CA.  
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1 The last incident also occurred at the Planet Fitness on Ranch Dr. (Exhibits  
2 6,8). I met a girl at the water fountain. We both took an interest in each other.  
3 At no time did she tell me she wanted to stop talking to me, nor expressed she  
4 was uninterested in me. She forgot her lock at home and when she was about to  
5 buy a lock, I attempted to pay for it, when Majenta then told me I was making  
6 the woman feel uncomfortable. The Planet Fitness member never expressed to  
7 me she was feeling uncomfortable. The Planet Fitness member also did not  
8 express to Majenta she was feeling uncomfortable nor made any movements to  
9 indicate she was uncomfortable. When I began telling Majenta to mind her  
10 business, the woman even backed me up, telling Majenta not to tell me  
11 anything and that she will talk to me when she wants. Unfortunately, Majenta  
12 and other staff members asked me to leave before I could purchase the lock for  
13 the woman.

14 Since that incident, I have been banned from all Planet Fitness locations in  
15 the Bay Area. (Exhibit 6).

#### 16 **IV. Causes of Action**

##### 17 **1. 42 U.S.C.A. § 1981**

18 In a § 1981 case involving a commercial establishment, a discrimination  
19 plaintiff must show that: (1) he is a member of a protected class; (2) he sought  
20 to make or enforce a contract for services ordinarily provided by the defendant;  
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1 and (3) he was denied the right to enter into or enjoy the benefits of the  
2 contractual relationship in that (a) he was deprived of services while similarly  
3 situated persons outside the protected class were not, and/or (b) he received  
4 services in a markedly hostile manner that a reasonable person would find  
5 objectively discriminatory. Fall v. LA Fitness, 161 F. Supp. 3d 601 (S.D. Ohio  
6 2016)

7 The Plaintiff is a member of a protected class: he is an African American male. The  
8 Plaintiff sought to use the amenities of the gym, services ordinarily provided by the  
9 Defendant Planet Fitness and within his contract to the gym. The Plaintiff was denied  
10 the services of the gym when he was harassed and forced to exit the gym on multiple  
11 occasions, after not having committed any serious infractions. The Plaintiff's gym  
12 membership was subsequently canceled. Thus the Plaintiff received services in a  
13 markedly hostile manner that a reasonable person would find objectively  
14 discriminatory.

15 **2. 42 U.S.C.A. § 2000a**

16 "To establish a prima facie case under § 2000a, plaintiff must show that he or  
17 she (1) is a member of a protected class; (2) attempted to exercise the right to  
18 full benefits and enjoyment of a place of public accommodation; (3) was  
19 denied those benefits and enjoyment; and (4) was treated less favorably than  
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1 similarly situated persons who are not members of the protected class.”

2 Bormuth v. Dahlem Conservancy, 837 F. Supp. 2d 667, 674 (E.D. Mich. 2011)

3 The Plaintiff is a member of a protected class: he is an African American male. The  
4 Plaintiff sought to use the amenities of the Planet Fitness gym; the gym is a place of  
5 public accommodation. The Plaintiff was denied the services of the gym, harassed on  
6 multiple occasions by gym members and staff, and forced to leave the gym on  
7 multiple occasions. Then the Plaintiff’s membership was canceled. The Plaintiff has  
8 not seen other gym members, who have a different ethnicity than the Plaintiff, treated  
9 in a similar manner.

10 **3. California Civil Code § 51: Unruh Civil Rights Act**

11 With regard to the Unruh Civil Rights Act particularly, we recently explained  
12 that it “must be construed liberally in order to carry out its purpose” to “create  
13 and preserve a nondiscriminatory environment in California business  
14 establishments by ‘banishing’ or ‘eradicating’ arbitrary, invidious  
15 discrimination by such establishments.” (Angelucci v. Century Supper Club  
16 (2007) 41 Cal.4th 160, 167, 59 Cal.Rptr.3d 142, 158 P.3d 718.) The Unruh  
17 Civil Rights Act “serves as a preventive measure, without which it is  
18 recognized that businesses might fall into discriminatory practices.” Munson v.  
19 Del Taco, Inc., 46 Cal. 4th 661, 666, 208 P.3d 623, 626 (2009)

1 The Plaintiff was not provided with the full and equal accommodations of Planet  
 2 Fitness gyms in the Bay Area, despite paying for the gym's services. Before the  
 3 Plaintiff's Oakland membership, Bay Area PF gyms removed the Plaintiff from their  
 4 gyms for invidious reasons. During the Plaintiff's Oakland membership, the Plaintiff  
 5 could sense negativity from some staff members. The Plaintiff was finally ordered to  
 6 leave the gym after talking to a woman. In all occasions, the Plaintiff did nothing to  
 7 warrant his removal from the gym. Indeed, the Unruh Civil Rights Act will serve to  
 8 banish the arbitrary and invidious discrimination the Plaintiff has endured.

9 **4. California Civil Code § 51.5**

10 For the same reasons listed in the previous section, the Defendant has violated this  
 11 California law.

12 **5. California Business & Professions Code § 17200: California Unfair**  
 13 **Competition Law ("UCL")**

14 The UCL prohibits, and provides civil remedies for, unfair competition, which  
 15 it defines as "any unlawful, unfair or fraudulent business act or practice." (§  
 16 17200.) Its purpose "is to protect both consumers and competitors by  
 17 promoting fair competition in commercial markets for goods and services."  
 18 (Kasky v. Nike, Inc. (2002) 27 Cal.4th 939, 949, 119 Cal.Rptr.2d 296, 45 P.3d  
 19 243; see Hall v. Time Inc. (2008) 158 Cal.App.4th 847, 852, 70 Cal.Rptr.3d  
 20 466.) In service of that purpose, the Legislature framed the UCL's substantive  
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provisions in “ ‘broad, sweeping language’ ” (Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co. (1999) 20 Cal.4th 163, 181, 83 Cal.Rptr.2d 548, 973 P.2d 527; see also Bank of the West v. Superior Court (1992) 2 Cal.4th 1254, 1266, 10 Cal.Rptr.2d 538, 833 P.2d 545 [“The Legislature intended this ‘sweeping language’ to include ‘ “anything that can properly be called a business practice and that at the same time is forbidden by law.” ’ ”] ) and provided “courts with broad equitable powers to remedy violations” (ABC Internat. Traders, Inc. v. Matsushita Electric Corp. (1997) 14 Cal.4th 1247, 1270, 61 Cal.Rptr.2d 112, 931 P.2d 290). Kwikset Corp. v. Superior Ct., 51 Cal. 4th 310, 320, 246 P.3d 877, 883 (2011)

The Plaintiff had a gym membership at Planet Fitness and expected the fair accommodations any patron would expect from a gym membership. Unfortunately, the Plaintiff was harassed and forcibly removed from Planet Fitness on multiple occasions; the Plaintiff never committed a serious infraction. The Plaintiff has lost money, time, and sanity as a result of the incidents with Planet Fitness. Planet Fitness, through this unfair act and business practice, has violated this law.

#### **6. California Civil Code § 1750: The Consumers Legal Remedies Act (CLRA)**

The language of the CLRA allows recovery when a consumer “suffers damage as a result of” the unlawful practice. This provision “requires that plaintiffs in a

CLRA action show not only that a defendant's conduct was deceptive but that the deception caused them harm.” (Massachusetts Mutual Life Ins. Co. v. Superior Court, supra, 97 Cal.App.4th at p. 1292, 119 Cal.Rptr.2d 190.) In re Vioxx Class Cases, 180 Cal. App. 4th 116, 129, 103 Cal. Rptr. 3d 83, 94–95 (2009)

On multiple occasions, the Plaintiff has been forced to leave Planet Fitness gyms in the Bay Area. In none of these occasions did the Plaintiff do anything to cause his unwanted removal from the gym. The Plaintiff has been forced to cut workouts short. The Plaintiff has battled with post-traumatic stress since these incidents. He is seeking help from licensed professionals and attends support groups. The Plaintiff has also purchased a gym membership from a different gym, inconveniencing him when he travels.

**7. Restatement (Second) of Agency § 213 - Negligent Training and Supervision; Restatement (Second) of Torts § 317 - Negligent Supervision**

Under California law, an employer may be held directly liable for the behavior of an unfit employee where the employer was negligent in the hiring, training, supervising, or retaining of that employee. Delfino v. Agilent Techs., Inc., 145 Cal.App. 4th 790, 815 (2006). “A plaintiff alleging negligent training under California law must show that the employer negligently trained the employee as to the performance of the employee's job duties and as a result of such

negligent instruction, the employee while carrying out his job duties caused injury or damage to the plaintiff.” Garcia ex rel. Marin v. Clovis Unified Sch. Dist., 627 F.Supp.2d 1187, 1208 (E.D.Cal.2009) (citing State Farm Fire & Casualty Co. v. Keenan, 171 Cal.App.3d 1, 23 (1985)). Wells v. Regents of Univ. of California, No. 15-CV-01700-SI, 2015 WL 5138181, at \*6 (N.D. Cal. Sept. 1, 2015)

The Defendant employs the persons responsible for the incidents that created this lawsuit. Instead of confronting the Plaintiff, the Director of Operations Brandon Romero ordered his staff to harass the Plaintiff. The Defendant remained the employer of those persons after the incidents occurred.

**8. Restatement (Third) of Law, Agency § 7.04, § 7.06, § 7.07, § 7.08 - Principal’s Liability to Third Party**

For the same reasons listed in all previous sections, the Defendant has violated this California law.

**9. Restatement (Third) of Torts § 47 - Negligent Conduct Directly Inflicting Emotional Harm on Another**

“A plaintiff in any negligence suit must demonstrate ‘ “a legal duty to use due care, a breach of such legal duty, and [that] the breach [is] the proximate or legal cause of the resulting injury.” ’ ” (*Kesner v. Superior Court* (2016) 1 Cal.5th 1132, 1142, 210 Cal.Rptr.3d 283, 384 P.3d 283 (*Kesner*).) ...

1 “California law establishes the general duty of each person to exercise, in his or  
2 her activities, reasonable care for the safety of others. (Civ. Code, § 1714, subd.  
3 (a).)” (Cabral, at p. 768, 122 Cal.Rptr.3d 313, 248 P.3d 1170.) Civil Code  
4 section 1714, subdivision (a), provides in relevant part: “Everyone is  
5 responsible, not only for the result of his or her willful acts, but also for an  
6 injury occasioned to another by his or her want of ordinary care or skill in the  
7 management of his or her property or person ...”

8 Dix v. Live Nation Ent., Inc., 56 Cal. App. 5th 590, 605, 270 Cal. Rptr. 3d 532,  
9 543 (2020).

10 Management and staff members at Planet Fitness had a “special relationship” with  
11 the Plaintiff, “an aspect of dependency in which one party relies to some degree on  
12 the other for protection.” (Regents, supra, 4 Cal.5th at p. 620, 230 Cal.Rptr.3d 415,  
13 413 P.3d 656.) As a contracted customer of Planet Fitness, the Plaintiff relied on  
14 Planet Fitness to have fair policies in place when there’s a dispute between two  
15 patrons, or between patrons and staff. Details of the events leading to this complaint  
16 show the exact opposite. The injuries from the emotional and physical harm can be  
17 found in **V. Injuries** section.

#### 18 **10. California Civil Code 1714**

19 For the same reasons listed in all previous sections, the Defendant has violated this  
20 California law.

## V. Injuries

The plaintiff made this statement: As far as the economical injuries, I can no longer access Planet Fitness. This required me to purchase a membership at a different, less convenient gym. Planet Fitness conveniently had many locations in the California Bay Area and Santa Cruz, whereas my current gym has many fewer locations in the Bay Area and no locations near Santa Cruz. I travel frequently; those Planet Fitness locations were detrimental to my ventures. Thus, I have to spend more time and money traveling to the gym, rerouting my ventures as needed. As far as mental injuries, I was traumatized by these incidents. I've abruptly lost many friends I connected with at Planet Fitness and those supporting relationships at the gym. Even at other gyms, I constantly fear every conversation I participate in can possibly result in traumatic events like those at Planet Fitness. I am currently in and seeking professional counseling. So far, I have only found an online support group.

## VI. Relief

The Plaintiff (he) would like to be compensated for all sustained injuries. As far as economical injuries, the Plaintiff seeks 1500 dollars per month since the suspension of his membership (December 2021). The Plaintiff, on average, has to spend an hour per day driving to a less convenient gym (50 dollars for one hour each day). The Plaintiff also has adjusted his schedule to the gym hours; most Planet Fitness locations are open 24 hours, whereas the Plaintiff's current gym is not.

1 As far as mental injuries and emotional distress, the Plaintiff suffers from the  
2 trauma and embarrassment of having been signaled out, harassed, and removed from  
3 the gym on multiple occasions. The Plaintiff attends support groups every week and  
4 is seeking professional counseling through a psychiatrist or therapist. The Plaintiff  
5 demands a total of 3 million dollars, covering mental and traumatic anguish plus the  
6 current and future costs of support groups and therapy.

7 The Plaintiff desires his black card membership at Planet Fitness to be reinstated  
8 and paid for, courtesy of Planet Fitness of Oakland, for the Plaintiff's lifetime. The  
9 Plaintiff demands Planet Fitness revise its policies regarding member-member and  
10 member-employee disputes to prevent occurrences of incidents like this from  
11 happening again.

12 The Plaintiff desires to be compensated for all costs of filing and litigating this  
13 lawsuit. The Plaintiff also seeks an award of 2 million dollars in punitive damages  
14 plus any other accommodation awarded by the Court.

## 15 **VII. Additional Amendments To Complaint**

16 The Plaintiff intends to file an additional amendment to this complaint once the  
17 names of the staff at Planet Fitness are provided by the defense through discovery.  
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1 DATED: June 28, 2023  
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Michael Devin Floyd

1 DATED: June 28, 2023

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3 Michael Devin Floyd

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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**  
10 **UNLIMITED JURISDICTION**

11 Michael Devin Floyd ) Case No.: 23CV037550  
12 )  
13 Plaintiff(s), ) **EXHIBITS TO COMPLAINT**  
14 )  
15 vs. )  
16 )  
17 Planet Fitness of Oakland, CA )  
610 Hegenberger Rd )  
Oakland, California 94621 )  
18 Defendant(s).  
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**EXHIBIT 1**

Membership Agreement between Planet Fitness of Jacksonville, FL and Michael Floyd.

Your new agreement

1 message

Planet Fitness Jacksonville Beach Blvd <info@myiclubonline.com>  
Reply-To: jacksonvillebeachblvd.fl@planetfitness.com  
To: mdf3039@gmail.com

Wed, Feb 13, 2019 at 5:07 PM



New Agreement Email

Here is a copy of your agreement for your records.

New Agreement 942216982

Dear Michael Floyd:

Thank you for joining Planet Fitness, the Judgement Free Zone. You are now an active member of our Beach Blvd location and are all set to work out. Upon your first visit, please stop by the front desk to receive your membership key tag. We ll also give you a quick tour.

Member Information

Member Name: Michael D Floyd  
Gender: Male  
Address: 1146 Old Central Rd Apt 405  
Central, SC 29630  
US  
Email: mdf3039@gmail.com  
Home Phone: (713) 562-7229  
Sales Person: Ashlee Bruce  
Campaign: Drive-By  
Employer: Self-employed

Agreement Information

Agreement #: 942216982  
Membership Type: BLACK CARD MEMBER  
Plan Name: BCM-Join For Just 25 Cents Down!-NAAKNA  
Agreement Term: Installment  
Schedule Frequency: Monthly  
Begin Date: 02/13/2019  
First Due Date: 02/17/2019  
Renewal Date: 03/13/2020  
Emergency Contact: Rose Floyd  
Emergency Contact Phone: (504) 453-8353

Due Today Payment Information

Account Holder Name: Michael Floyd  
Credit Card Type: Discover  
Credit Card Number: XXXX-XXXX-XXXX-6771  
Credit Card Expiration: 10/2023  
Account Zip Code: 29630

Due Today

	Amount	Taxes	Total
* Startup Fee	\$0.25	\$0.02	\$0.27
Prorated Dues	\$2.89	\$0.20	\$3.09
Down Payment	\$0.00	\$0.00	\$3.36

**Recurring Payment Information**

Account Holder Name: Michael Floyd  
Bank Account Type: Checking  
Routing Number: 065403626  
Bank Account Number: XXXXXX7037

**Recurring Payments**

Name	First Due Date	Payments	Frequency
DUESWTAN	02/17/2019	12@	\$23.60 Monthly

**Fees**

Fee Name	Payment	Recurring	Fee Date
Annual Membership Fee	39.00	\$41.73 Annual	04/01/2019

**Authorization Terms**

By executing this Agreement, You authorize Club and Club's agents, including its third party payment processing companies ("Club's Agents"), to store the account or card information provided by You on or in relation to this Agreement and/or Your Club Membership Agreement ("Club Agreement"), as well as any other account or card information provided by You through any means to Club or Club's Agents (including information provided in person, online or over the phone) for purposes of making any payment in relation to this Agreement and/or Your Club Agreement (hereinafter, "Payment Information"). Club and/or Club's Agents will use the stored Payment Information to process payment of all dues, fees, taxes, purchases and incidental charges that are due or will become due, including all items on the Payment Schedule, fees identified in Your Club Agreement, membership-related obligations, retail transactions, personal training purchases, group exercise purchases, childcare fees, or other purchases. Club and/or Club's Agents may also use the stored Payment Information to process payments owed in relation to all subsequent agreements entered between You and Club. The fixed dates or intervals on which transactions will be processed and the transaction amounts (including all associated fees, taxes and charges) and/or a description of how they will be calculated, are more specifically set forth in the Payment Schedule and other terms of Your Club Agreement. If Your Club Agreement will automatically renew at the end of the Term defined therein, the stored Payment Information will be used to process payments owed in relation to the renewal term. This consent to store Payment Information will not expire unless it is expressly revoked. The general cancellation and refund policies provided in Your Club Agreement will apply to this consent. If any changes are made to the terms of this consent, an e-mail notifying you of such changes will be sent to the e-mail address provided by You on the face of Your Club Agreement or, if an e-mail is not provided, notice will be sent to the mailing address provided on Your Club Agreement.

I have read and accept the Authorization Terms above.

**Notes**

- Your Monthly Membership Fee will be billed to the account on or around the 17th of each month beginning on the indicated date for the indicated amount per month plus applicable taxes until you cancel in accordance with this agreement.
- If you have a minimum monthly term, your account below will be billed for a minimum of the indicated number of months **and will continue on a month-to-month basis at the monthly rate above until you cancel in accordance with this agreement.**
- Your Monthly Membership Fee is guaranteed so long as you remain a member in good standing including payment of all monthly dues and your Annual Membership Fee.
- An Annual Membership Fee will be billed to your account below on or around the 1st beginning on the indicated date for the indicated amount and will continue to be billed on or around the anniversary of that date each year thereafter until you cancel in accordance with this agreement.
- To cancel your monthly membership and stop the billing of the Monthly Membership Fee on or around the 17th of the month, the club must receive written notification delivered to the club by the 10th of the month either in person or preferably via certified mail to the club address listed above. Please note it may take up to seven (7) business days for any membership or billing changes to take effect. In order to cancel your membership prior to the billing of the Annual Membership Fee, the club requires written notice delivered as described above no later than the 25th of the month before such billing. The Annual Membership Fee is fully earned when received and is non-refundable.
- If your monthly membership has a minimum term, and you wish to cancel your membership before the end of the term for reasons other than those listed in Section 9 of this agreement, a \$58 buyout fee is required.
- If you provide us with more than one method of payment, you authorize us to charge any amounts you may owe us including, but not limited to, any membership-related obligations, retail transactions, and/or online purchases to any form of payment which you have provided us until such time as you revoke your authorization for that method of payment by written notification delivered to the club in person or preferably via certified mail to the address listed above.
- If your credit or debit card expires, you authorize us to obtain a new expiration date from the card issuer, if we choose to do so, and/or to continue billing the card in accordance with the terms of this agreement (whether or not we have obtained a new expiration date).
- If your credit or debit card expires, you authorize us to obtain a new expiration date from the card issuer, if we choose to do so, and/or to continue billing the card in accordance with the terms of this agreement (whether or not we have obtained a new expiration date).
- In accordance with applicable law, if our first attempt to collect any fee under this Agreement is unsuccessful, we may make additional attempts to collect from any/all payment methods you provide us, and a service fee of up to \$25 or the maximum amount allowed by law may be applied for each instance we submit or re-submit such payment request and it is returned uncollectable for any reason including, but not limited to, insufficient funds, expired or cancelled payment cards, overdrafts and closed accounts. We are not liable for any fees charged by your financial institution in the event a payment request is returned as uncollectable.
- **Cancellation & Billing Policies: I have read and understand the cancellation rights and billing policies on the front and back of this agreement**

*I have read and accept the Notes above.*

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Terms and Conditions

available at [www.PlanetFitness.com](http://www.PlanetFitness.com). Please review the Privacy Policy before signing this agreement as it contains important information relating to your personal information. Either may contact you from time to time by telephone, email, text message or other means with information and offers related to your membership which may be of interest to you. If you do not wish to receive such messages, you can opt out at any time.

**J) Dispute Resolution:** In the unlikely event that Planet Fitness and/or PF Corporate is unable to resolve a complaint you may have to your satisfaction (or is unable to resolve a dispute with you after attempting to do so informally), we each agree to resolve such disputes through binding arbitration or small claims court rather than a court of general jurisdiction. For simplicity and fairness, arbitration will be conducted on an individual basis in accordance with the American Arbitration Association's rules for consumer arbitration. By signing this agreement, you acknowledge and agree that you, Planet Fitness, and PF Corporate are each waiving the right to a trial by jury and the right to participate in a class action, either in court or in arbitration. This Dispute Resolution provision shall apply to this contract unless, within thirty (30) days of signing this contract, you notify Planet Fitness in writing that you reject this provision. Such notification must be made in writing delivered to the club address listed on the first page. Rejection of this provision shall have no effect on the remaining provisions of this contract.

#### 4. Rules & Regulations

You agree to follow Planet Fitness' membership policies and club rules. Planet Fitness may, in its sole discretion, modify the policies and any club rule without notice at any time. Club rules vary by location and all signs posted in a club or on the premises or verbal communication shall be considered a part of the rules of Planet Fitness. Planet Fitness reserves the right to refund the pro-rated cost of unused services and terminate your membership immediately for violation of any membership policy or club rule.

#### 5. Dress Code

Planet Fitness strives to provide a safe and comfortable environment for all members. As such, Planet Fitness management and staff may enforce, and you agree to abide by, a dress code in all areas of the club. Clothing that may be perceived as intimidating, revealing or offensive, as well as clothing that may present a safety hazard or damage equipment, is not allowed.

#### 6. Account Information Notifications

Planet Fitness may contact you via telephone, email, text message or other means from time to time for the purpose of notifying you of issues related to your membership or billing information or for automatic payment processing issues. By providing us with your contact information and signing this agreement, you give your prior express written consent to receive, at any address or phone number provided to us, membership and billing-related communications from us or our authorized delegate to the extent permitted by applicable law, including without limitation the Telephone Consumer Protection Act and the Fair Debt Collection Practices Act. Data and usage charges may apply.

#### 7. Facilities & Services

A) Planet Fitness reserves the right at any time to remove, discontinue, repair or replace the equipment available to members without any effect on this agreement. Planet Fitness also reserves the right to make changes to the type or quantity of equipment, programs or services offered to members and to alter the hours of operation in Planet Fitness' sole discretion. You acknowledge and agree that the equipment, programs and services currently available at the facility are subject to change from time to time and are offered on a "first come, first served basis."

B) Planet Fitness regularly closes its facilities (or portions of its facilities) for maintenance on a temporary basis and also closes on selected holidays, etc. and such temporary closures will have no effect on this agreement so long as such temporary closures are reasonable. If your home club is permanently closed, moved or sold, Planet Fitness reserves the right to assign and transfer your membership to another club within five (5) miles of your home club, in accordance with your rights under applicable law as set forth in Section 9 below.

#### 8. Dues, Fees, Charges & Taxes

<https://mail.google.com/mail/u/0/?ik=99facaac73&view=pt&search=all&permthid=thread-f%3A1625404393593086559&simpl=msg-f%3A1625404393593086559>

5/7

THAT A REFUND IS DUE THE BUYER, THE REFUND SHALL BE AN AMOUNT COMPUTER BY DIVIDING THE CONTRACT PRICE BY THE NUMBER OF WEEKS IN THE CONTRACT TERM AND MULTIPLYING THE RESULT BY THE NUMBER OF WEEKS REMAINING IN THE CONTRACT TERM. THE BUSINESS LOCATION OF A HEALTH STUDIO SHALL NOT BE DEEMED OUT OF BUSINESS WHEN TEMPORARILY CLOSED FOR REPAIR AND RELOCATION OF THE PREMISES: 1) UPON SALE, FOR NOT MORE THAN 14 CONSECUTIVE DAYS; OR 2) DURING OWNERSHIP, FOR NOT MORE THAN SEVEN (7) CONSECUTIVE DAYS AND NOT MORE THAN TWO (2) PERIODS OF SEVEN (7) CONSECUTIVE DAYS IN ANY CALENDAR YEAR. A REFUND WILL BE ISSUES WITHIN 30 DAYS AFTER RECEIPT OF THIS NOTICE.

MEMBERS ARE ADVISED TO CONTACT THE FLORIDA DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES FOR INFORMATION WITHIN 60 DAYS SHOULD THE HEALTH STUDIO GO OUT OF BUSINESS TO ADDRESS ANY UNRESOLVED CONFLICTS.

THIS CONTRACT MAY BE CANCELLED IF THE BUYER DIES OR BECOMES PHYSICALLY UNABLE TO AVAIL HIMSELF OR HERSELF OF A SUBSTANTIAL PORTION OF THOSE SERVICES WHICH HE OR SHE USED FROM THE COMMENCEMENT OF THE CONTRACT UNTIL THE TIME OF DISABILITY, WITH REFUND OF FUNDS PAID OR ACCEPTED IN PAYMENT OF THE CONTRACT IN AN AMOUNT COMPUTED BY DIVING THE CONTRACT PRICE BY THE NUMBER OF WEEKS IN THE CONTACT TERM AND MULTIPLYING THE RESULTED BY THE NUMBER OF WEEKS REMAINING IN THE CONTRACT TERM. THE BUYER OR THE BUYER'S ESTATE SEEKING RELIEF UNDER THIS PARAGRAPH MAY BE REQUIRED TO PROVIDE PROOF OF DISABILITY OR DEATH. A PHYSICAL DISABILITY SUFFICIENT TO WARRANT CANCELATION OF THE CONTRACT BY THE BUYER SHALL BE ESTABLISHED IF THE BUYER FURNISHES TO THE HEALTH STUDIO A CERTIFICATION OF SUCH DISABILITY BY A PHYSICIAN LICENSED UNDER CHAPTER 458, 459 OR CHAPTER 461 TO THE EXTENT THE DIAGNOSIS OR TREATMENT IS WITHIN THE PHYSICIAN'S SCOPE OF PRACTICE. A REFUND SHALL BE ISSUES WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THE NOTICE OF CANCELLATION MADE TO PURSUANT TO THIS PARAGRAPH.

THE INITIAL CONTRACT WILL NOT BE FOR A PERIOD IN EXCESS OF THIRTY-SIX (36) MONTHS, AND THEREAFTER SHALL ONLY BE RENEWABLE ANNUALLY. RENEWAL CONTRACTS MAY NOT BE EXECUTED AND THE FEE THEREFORE PAID UNTIL SIXTY (60) DAYS OR LESS BEFORE THE PRECEDING CONTRACT EXPIRES.

#### **10. Limitation of Liability**

Unless controlling legal authority requires otherwise, any award by the arbitrator or a court is limited to actual compensatory damages. Specifically, neither an arbitrator nor a court can award either party any indirect, special, incidental or consequential or punitive damages, even if one party told the other party that they might suffer these damages.

**PF Jax Three, LLC d/b/a Planet Fitness is registered with the State of Florida as a Health Studio. HS#8924**

I have read and accept the Terms and Conditions above.

---



Head to the club and take a tour with one of our friendly staff members! Renewal Date refers to the date your 12 month commitment has been met and your membership will continue, on a month-to-month basis, until you cancel in accordance with your membership agreement.

Connect with Us:

Facebook

Our mailing address is:

**Planet Fitness Jacksonville Beach Blvd**

14444 Beach Blvd

Jacksonville, FL 32250

Phone: (904) 992-8484

Email: [jacksonvillebeachblvd.fl@planetfitness.com](mailto:jacksonvillebeachblvd.fl@planetfitness.com)

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## **EXHIBIT 2**

Report on the incidents that occurred at Planet Fitness locations in the Bay Area prior to the Oakland membership. This report was sent to management at Planet Fitness.

This started on Wednesday, August 31 2021 at the Planet Fitness in Fremont, California. My home gym is at the Pomegrante Shopping Center in Jacksonville, Florida. I work online and received a project as I was driving to the gym. When I got to the gym, I asked the staff at the front counter if it was alright to use my computer at the table near the front desk to work. I have used my computer at many other locations for brief periods of time and I did not consider this a big deal. Neither did the staff. They agreed (there was more than one person there). I took my computer into the Planet Fitness, finished my work, and then proceeded to workout. While working out, I received another project. After completing my workout, I asked the staff once again for permission to use the computer. They obliged and I used the computer. The Planet Fitness at Fremont location closed at 10 PM that day. At 10:04, one of the staff members notified me the gym was closed. I left promptly.

The next day, Thursday September 1, I went to workout at the gym. When checking into the facilities, I saw for the first time Leslie, the manager. While working out, I was asked twice by the Planet Fitness staff to fix my mask. This seems to be a typically common mistake by myself and other gym members; I may drink some water then forget to put up my mask. At the end of my workout, I was confronted by Leslie. She was irate in telling me that I need to keep my mask up. She also told me she did not want me using the computer in the gym anymore and it was my fault for leaving 4 minutes after closing. I consented to keep my mask up and not use the computer anymore and proceeded to workout. I saw Leslie twice before leaving on Thursday. No other words were exchanged. I worked out Friday and Saturday morning at the same gym with no problems. I went back Saturday evening to get some light cardio. When checking in, I was told there was something wrong with my account. They said there was a hold on my account. The woman at the front desk said this is usually because of a payment issue.

I left the Planet Fitness, checked my payments, and called my home gym in Florida. They confirmed the payments were fine and there were no holds on my account. They checked me in at that location to confirm this. The manager I spoke with was named Rakesh. After confirming this, I entered the Fremont location to settle the issue. They then claimed that the issue was with the incident that occurred on Wednesday. They said they would not allow me into the location. I proceeded to ask more questions to the two staff members. One of the staff members was named Jacob. The other staff member was not wearing a name tag, but I believe her name was Gloria (I have seen and spoke with her before). I asked for her name before I left. She would not give it to me and proceeded to call the police on me. I wanted her name before I left. The police came and forced me to leave before I received her name. They also gave me a notice that I was trespassing and cannot enter the premises until notified I can enter the premises. This was Saturday night.

After Saturday, I moved locations. I was working out at the Planet Fitness in Hayward, CA, when an incident occurred there. This is on Tuesday night, September 7, 2021. I was working out at the Hayward location. I was in the ab machine location. There were no people in the ab machine location when I began. I decided to superset the abs, meaning interchange two different ab machines that target different sections of the abs. This reduces time spent in the gym. I can recover from one exercise while doing another. Midway through a superset, a woman approached one of the machines I was using. I told her I was using the machine. She got upset because I was using two machines at once. I told her I was almost finished. She proclaimed that was not allowed and told the staff member cleaning nearby. His name was Greg. As she was explaining the situation to Greg, I hastily requested her to move so I could proceed to workout. They were

blocking my way to the next exercise. Upon hearing her complaint, Greg told me I could not use two machines at once. I told him I only had one set left. The woman and Greg both agreed to let me finish the last exercise. I finished, cleaned the equipment and left the station. Nothing else was said.

The next day, Wednesday September 8, I used the gym in the morning. I came back at night to do my light cardio. This is when I was told by Greg I could not enter the gym. When asking him why, he told me it was because of the incident that occurred last night. No big deal was made the prior night and nothing was said after I was told I could not occupy two machines (for no matter how long). I was shocked he was telling me this. He also told me that I cursed at the woman, which I remember I did not. After denying this, Greg switched up his story. This is when a manager, RJ, entered the discussion. They now said the reason why I could not enter is because of the incident in Fremont. RJ notified me that his upper in management, Cecelia, came in during the morning, saw me, and advised them I was not allowed in the gym. The weird part about this story is I was not notified of this while leaving in the morning. He said the Hayward and Fremont locations are a part of the same management.

I checked the computer and there was no flag on my account. I believe these locations are making excuses to not allow me to use their facilities. The problem is I have no idea why and am not willing to be banned without proper justification. I would like someone to review this and set up a phone call where we can all figure out what the issue is. By we, I mean Leslie the manager at Fremont, Cecelia the upper management for both locations, RJ the manager at Hayward, Rakesh the manager in Jacksonville, and myself included.

Can someone get back to me on this issue quickly and speak with these managers while this is fresh on everyone's minds?

While I do not want to blame these problems on racial discrimination, I will. I made a mistake previously when the incident occurred at the Planet Fitness location in San Jose on White Road. That incident was in July, a couple months ago. Without any notification to me, they made complaints to HR about my vulgarity and personality. I received no indication from anyone in the gym I was causing a problem. I never used any vulgar language towards anyone. It was my mistake to agree to not set foot in that gym again. This will not continue to happen to all Planet Fitnesses and, if necessary, I will take action in the courts of law if necessary. I just want to workout, that's all.

### **EXHIBIT 3**

Gmail conversation between Michael Floyd and Jacob Saltzman, the area director for Planet Fitnesses in Florida, Georgia, and Alabama.



Michael Floyd <mdf3039@gmail.com>

Membership status

3 messages

Jacob Saltzman <jsaltzman@taymaxgroup.com>

To: "mdf3039@gmail.com" <mdf3039@gmail.com>

Thu, Sep 9, 2021 at 8:16 AM

Good morning, Michael.

I tried to reach to you by phone earlier today to discuss your membership status with Planet Fitness.

During your recent visits to Planet Fitness in the California area, you had multiple policy infractions which violates your agreement you signed upon signing up initially in Florida. As a result, we have decided to terminate your membership effective immediately. You will no longer be eligible to sign up for a new membership due these violations. Also, you will not be billed moving forward from today.

If you have any questions regarding the above information, please don't hesitate to contact me.

Thank you,

**JAKE SALTZMAN**  
**AREA DIRECTOR - FLORIDA/GEORGIA/ALABAMA**  
**TAYMAX GROUP, LP**  
27 Northwestern Drive, Suite 2  
Salem, NH 03079



Michael Floyd <mdf3039@gmail.com>

To: Jacob Saltzman <jsaltzman@taymaxgroup.com>

Thu, Sep 16, 2021 at 10:56 AM

Thanks Jacob. This message was deleted by mistake when first received. I tried to request a meeting at once when the situation became a problem. I will give you the synopsis of what occurred at the Planet Fitness. I wrote everything down. It

was just too big to fit in the small message for the 'Contact Us' section.

[Quoted text hidden]

--

Michael Floyd, MS



IncidentAtCaliforniaPlanetFitness.txt

7K

Michael Floyd <mdf3039@gmail.com>

Fri, Sep 24, 2021 at 8:15 AM

To: Jacob Saltzman <jsaltzman@taymaxgroup.com>

Hey Jacob. Let's set up a meeting where we can discuss the incidents. I am sure by now you have retrieved testimonies of the events from the other parties involved. I would like to get back to working out and using Planet Fitness as soon as possible.

[Quoted text hidden]

--

Michael Floyd, MS

**EXHIBIT 4**

Gmail conversation between Michael Floyd and Katie Huff, an Area Director for the Planet Fitnesses in Florida.



Michael Floyd <mdf3039@gmail.com>

Planet Fitness Membership

7 messages

Katie Huff <khuff@taymaxgroup.com>  
To: "mdf3039@gmail.com" <mdf3039@gmail.com>

Mon, Sep 27, 2021 at 11:28 AM

Hi Michael,

I am reaching out in regards to your Planet Fitness membership. Please let me know a day, time and good number to reach you.

Thank you,

**KATIE HUFF**  
**AREA DIRECTOR - FLORIDA**

**TAYMAX GROUP, LP**  
27 Northwestern Drive, Suite 2  
Salem, NH 03079



**TAYMAX GROUP**  
A PLANET FITNESS FRANCHISEE

Michael Floyd <mdf3039@gmail.com>  
To: Katie Huff <khuff@taymaxgroup.com>

Mon, Sep 27, 2021 at 11:36 AM

Does Wednesday work for you? I am on the West Coast, so my afternoon may work best. How about Tuesday at 3:00 PM Pacific Time, noon Eastern?

[Quoted text hidden]

Michael Floyd, MS

Mon, Sep 27, 2021 at 11:51 AM

Michael Floyd <mdf3039@gmail.com>  
To: Katie Huff <khuff@taymaxgroup.com>

<https://mail.google.com/mail/u/0/?ik=99facaac73&view=pt&search=all&permthid=thread-f:1712080603189602594&simpl=msg-f:1712080603189602594&simpl=m...> 1/5

I actually just got this backwards. Since I am on the West Coast, I am behind you in time. Does 3:00 PM Eastern work for you?

[Quoted text hidden]

--

Michael Floyd, MS

Katie Huff <khuff@taymaxgroup.com>  
To: Michael Floyd <mdf3039@gmail.com>

Tue, Sep 28, 2021 at 9:48 AM

Hey Michael,

I am traveling this week, Friday would be best for me. Can we do either 11am EST?

**KATIE HUFF**  
**AREA DIRECTOR - FLORIDA**

**TAYMAX GROUP, LP**

27 Northwestern Drive, Suite 2

Salem, NH 03079

**Phone:** 704-985-2474



[Quoted text hidden]

Michael Floyd <mdf3039@gmail.com>  
To: Katie Huff <khuff@taymaxgroup.com>

Tue, Sep 28, 2021 at 1:09 PM

Works for me. See you then! Should I set up a Zoom meeting?

[Quoted text hidden]

--

Michael Floyd, MS

Katie Huff <khuff@taymaxgroup.com>  
To: Michael Floyd <mdf3039@gmail.com>

Tue, Sep 28, 2021 at 4:36 PM

Sounds good, I will just give you a call. Please let me know I what number works best for you.

Katie Huff  
Area Director - Florida

Taymax Group, LP  
27 Northwestern Drive, Suite 2  
Salem, NH 03079

On Sep 28, 2021, at 3:09 PM, Michael Floyd <mdf3039@gmail.com> wrote:

Works for me. See you then! Should I set up a Zoom meeting?

On Tue, Sep 28, 2021 at 9:48 AM Katie Huff <khuff@taymaxgroup.com> wrote:

Hey Michael,

I am traveling this week, Friday would be best for me. Can we do either 11am EST?

**KATIE HUFF**

**AREA DIRECTOR - FLORIDA**

**TAYMAX GROUP, LP**

27 Northwestern Drive, Suite 2

Salem, NH 03079

**Phone:** 704-985-2474

<image001.png>

**From:** Michael Floyd <mdf3039@gmail.com>

**Sent:** Monday, September 27, 2021 2:52 PM

**To:** Katie Huff <khuff@taymaxgroup.com>

**Subject:** Re: Planet Fitness Membership

I actually just got this backwards. Since I am on the West Coast, I am behind you in time. Does 3:00 PM Eastern work for you?

On Mon, Sep 27, 2021 at 11:36 AM Michael Floyd <mdf3039@gmail.com> wrote:

Does Wednesday work for you? I am on the West Coast, so my afternoon may work best. How about Tuesday at 3:00 PM Pacific Time, noon Eastern?

On Mon, Sep 27, 2021 at 11:28 AM Katie Huff <khuff@taymaxgroup.com> wrote:

Hi Michael,

I am reaching out in regards to your Planet Fitness membership. Please let me know a day, time and good number to reach you.

Thank you,

**KATIE HUFF**

**AREA DIRECTOR - FLORIDA**

**TAYMAX GROUP, LP**

27 Northwestern Drive, Suite 2

Salem, NH 03079

<image001.png>

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Michael Floyd, MS

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Michael Floyd, MS

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Michael Floyd, MS



**TAYMAX GROUP**  
A PLANET FITNESS FRANCHISEE

image001.png  
16K

**Michael Floyd** <mdf3039@gmail.com>  
To: Katie Huff <khuff@taymaxgroup.com>

Tue, Sep 28, 2021 at 5:11 PM

7135627229  
Looking forward to speaking with you.  
[Quoted text hidden]

Michael Floyd, MS

## **EXHIBIT 5**

Membership Agreement between Planet Fitness of Oakland, CA on Hegenberger Rd and Michael Floyd.



610 Hegenberger Rd Oakland, California 94621 • 510-577-9636

www.planetfitness.com

MEMBERSHIP AGREEMENT

CLUB # 09383      DATE 09/17/2021      MEMBERSHIP # 938306685      EXPIRATION

Name Michael Floyd      Date of Birth 09/08/1989

Address 1214 Mount Hermon Rd      City Scotts Valley      State CA      Zip 95066

Cell Phone      Home Phone 504-464-9390

Email Address mdf3039b@gmail.com      How did you hear about us?

Membership Type BCM      Club Access: Black Card Reciprocal Access

Have you been a member of a gym before?

Membership Fees: \$1.00      \$22.99      \$0.00      \$23.99

START-UP      FIRST MONTH PRORATE      PRE-PAID (TERM)      TOTAL

• Your Monthly Membership Fee will be billed to the account below on or around the 17th of each month beginning on 10/17/2021 until you cancel in accordance with this agreement.

• **Promotional Pricing (optional):** For the first months of your membership, your Monthly Membership Fee will be \$ per month plus applicable taxes..

• **Regular Pricing:** After the promotional period ends (if any), your Monthly Membership Fee will be \$22.99 per month plus applicable taxes..

• This membership has a month minimum term (minimum term not to exceed 12 months).

• If you have a minimum monthly term, your account below will be billed for a minimum of 0 months and will continue on a month-to-month basis at the monthly rate above until you cancel in accordance with the terms of this agreement.

• Your Monthly Membership Fee is guaranteed so long as you remain a member in good standing including payment of all monthly dues and your Annual Membership Fee.

• If you purchase a PF+, Classic +, or PF Black Card membership at a participating location, your membership includes access to Planet Fitness's premium digital content, including a PF+ Subscription on the Planet Fitness mobile app during your membership. Your access to, and use of, Planet Fitness's premium digital content, including the PF+ Subscription, is subject to the Terms of Use available at: https://www.planetfitness.com/mobile/terms-use.

• An Annual Membership Fee will be billed to your account below on or around the 1st beginning on 11/01/2021, for \$399.00, plus applicable taxes and will continue to be billed on or around the anniversary of that date each year thereafter until you cancel in accordance with the terms of this agreement. The Annual Membership Fee is an account maintenance fee and, as such, will be billed notwithstanding a membership freeze or temporary closure or disruption of service. The PF+ membership does not include an Annual Membership Fee.

• To cancel your monthly membership and stop the billing of the Monthly Membership Fee, the club must receive written notification from you delivered to the club by the 10th of the month either in person, by email to oaklandhegenberger.ca@planetfitness.com, or preferably via first-class mail to the club address listed above. Please note it may take up to seven (7) business days for any membership or billing changes to take effect. In order to cancel your membership prior to the billing of the Annual Membership Fee, the club requires written notice from you delivered as described above no later than the 25th of the month before such billing. The Annual Membership Fee is fully earned when received and is non-refundable.

• We may, in our discretion, defer billing of the Annual Membership Fee and/or Monthly Membership Fee after providing notice to you. Deferral of your Annual Membership Fee in one year does not change the Annual Membership Fee billing date set forth in this agreement for subsequent years or entitle you to pay a lower Annual Membership Fee, unless we notify you otherwise. Cancellation of your membership will not eliminate any accrued balance you may owe.

• If your monthly membership has a minimum term, and you wish to cancel your membership before the end of the term for reasons other than those listed in Section 9 of this agreement, you must pay a \$58 buyout fee. This buyout fee does not apply to PF+ memberships.

• If you provide us with more than one method of payment, you authorize us to charge any amounts you may owe us including, any membership-related obligations, retail transactions, and/or online purchases to any form of payment you have provided us until such time as you revoke your authorization for that method of payment by written notification delivered to the club in person or preferably via mail to the address listed above.

• If your credit or debit card expires, you authorize us to obtain a new expiration date from the card issuer, if we choose to do so, and/or to continue billing the card in accordance with the terms of this agreement (whether or not we have obtained a new expiration date).

• In accordance with applicable law, if our first attempt to collect any fee under this Agreement is unsuccessful, we may make additional attempts to collect from any/all payment methods you provide us, plus a service fee of up to \$25 or the maximum amount allowed by law for each instance we submit or re-submit such payment request and it is returned uncollectible for any reason including, insufficient funds, expired or cancelled payment cards, overdrafts and closed accounts. We are not liable for any fees charged by your financial institution if a payment request is returned as uncollectable.

• **Cancellation & Billing Policies:** I have read and understand the cancellation rights and billing policies on the front and back of this agreement. e-signed (Member initials)

PAYMENT AUTHORIZATION	<b>PRIMARY PAYMENT ACCOUNT</b>		<b>ALTERNATIVE PAYMENT ACCOUNT</b>	
	NAME ON ACCOUNT: Michael Floyd		NAME ON ACCOUNT: Michael Floyd	
	BANK ACCOUNT #: XXXX7037		CREDIT CARD #: XXXX-XXXX-XXXX-2455	
	ROUTING #: 065403626		EXPIRATION DATE: 06 2024	
	If different than name and home address above:			
	BILLING NAME:		BILLING NAME:	
	BILLING ADDRESS:		BILLING ADDRESS:	
	CITY: STATE: ZIP CODE:		CITY: STATE: ZIP CODE:	
	<small>By initiating below and signing this agreement, I authorize SABER FITNESS HEGENBERGER, LLC, d/b/a Planet Fitness® ("Planet Fitness" "us" or "we") (a franchisee of Planet Fitness Franchising LLC) to assign, affiliates and other parties authorized by Planet Fitness including, but not limited to, Planet Fitness Franchising LLC, its parents, subsidiaries and affiliates and payment processing companies (collectively, "PF Corporate") to store the Primary Payment Account and any Alternative Payment Account information provided by me on or in relation to this agreement and/or my Planet Fitness membership, as well as any other account or card information provided by me through any means to Planet Fitness or PF Corporate (including information provided in person, online or over the phone) for purposes of making any payment in relation to this agreement and/or my Planet Fitness membership (hereinafter, "Payment Information"). I authorize Planet Fitness and/or PF Corporate to initiate transfers from the Primary Payment Account designated above for the purpose of billing all or a portion of the recurring Monthly Membership Fee I owe to Planet Fitness on or around the 17th of each month and the Annual Membership Fee (if applicable) on or around the date indicated above and all of my obligations are paid under this agreement. I understand that my obligations under this agreement includes the Monthly Membership Fee, Annual Membership Fee (if applicable), service fees for uncollectable and incidental charges that I may make, including retail transactions and/or online purchases initiated by me. If at any time Planet Fitness or PF Corporate are unable to successfully bill the Primary Payment Account for any fee or other obligation monitored above, I further agree that Planet Fitness or PF Corporate may submit the fee to the Primary Payment Account and/or bill the Alternative Payment Account for any fee or obligation (including service charges), or any portion thereof. I agree that transfers of partial payments of an overdue balance are authorized by me under this agreement. I agree that Planet Fitness and PF Corporate may also use the stored Payment Information to process payments owed in relation to all subsequent agreements entered into between me and Planet Fitness. If my membership will automatically renew at the end of a term set forth in this agreement, the stored Payment Information will be used to process payments owed in relation to the renewal term. This authorization to store and use Payment Information will not expire unless it is expressly revoked by me. I understand that the amounts debited from my account may vary each month based on additional amounts owed to Planet Fitness in accordance with the terms of this agreement. I confirm that I am authorized under the terms of the applicable agreement with my financial institution to use the accounts designated above for the purchase of goods and services from Planet Fitness, PF Corporate, or anyone acting on their behalf, and hereby agree to defend, indemnify and hold harmless Planet Fitness and PF Corporate to the fullest extent permitted by law for any claim brought against Planet Fitness and/or PF Corporate. I understand that an e-mail notifying me of each change will be sent to the e-mail address provided by me on the first page of this agreement or, if an e-mail is not provided, that notice from Planet Fitness or PF Corporate will be sent to the mailing address provided on the first page of this agreement.</small>			
	e-signed		(Member Signature)	

Cosigner Authorization & Waiver

☐ **Parent/Guardian:** Planet Fitness does not accept members under the age of 13. In exchange for Planet Fitness allowing my minor child who is 13 years or older to purchase a membership, I agree to the Release of Liability, Assumption of Risk and Privacy clauses in this agreement and I agree to defend, indemnify and hold harmless Planet Fitness and PF Corporate to the fullest extent permitted by law for any claim brought by or on behalf of my minor child against Planet Fitness and/or PF Corporate. I also promise to pay any financial obligation that my minor child does not pay for any reason and acknowledge that the payment information provided above is my account. I understand and agree that if my minor child is under the age of 15, he or she must be accompanied by a parent or guardian at all times while at any Planet Fitness facility.

☐ **Financial Cosigner:** I promise to pay any financial obligation that the member does not pay for any reason and acknowledge that the payment account information provided above correctly identify my accounts. I agree to the Privacy clauses in this agreement. I also agree to defend, indemnify and hold harmless Planet Fitness and PF Corporate to the fullest extent permitted by law for any claim brought against Planet Fitness and/or PF Corporate by or on behalf of the member.

Name: Address: Phone: Authorized Signature: e-signed

RELEASE OF LIABILITY      INDEMNIFICATION      ASSUMPTION OF RISK      CLUB RULES      BUYER'S NOTICE & RIGHT TO CANCEL

I understand and expressly agree that my use of this or any other Planet Fitness facility and/or digital content involves the risk of injury to me or my guest whether caused by me or not. I understand that these risks are inherent in physical activity and my use of the facilities and/or digital content and can range from minor injuries to major injuries, including death. In consideration of my participation in the activities and use of the facilities, exercise equipment and services offered by Planet Fitness and such use by my guests, if applicable, I understand and voluntarily accept full responsibility on my behalf and on my guest's behalf for the risk of injury, illness or loss arising out of or related to my use or my guest's use of the facilities including, exercise equipment, tanning, message beds/chairs, and participation in PE@PF® or other exercise programs or use of other services, equipment, digital content, and/or programs offered to members. I further agree that Planet Fitness, PF Corporate, their respective affiliated companies, parents, subsidiaries and the officers, directors, shareholders, employees, managers, members, agents and independent contractors of such entities will not be liable for any loss including, personal, bodily, or mental injury, illness, disability, death, economic loss or any damage to me, my spouse or domestic partner, guests, unborn children, heirs, or relatives resulting from the negligent conduct or omission of Planet Fitness, PF Corporate, or anyone acting on their behalf, whether related to exercise or not. Accordingly, to the fullest extent permitted by law, I do hereby forever release, waive and discharge Planet Fitness and PF Corporate from any and all claims, demands, injuries, damages, actions or causes of action related to my use or my guest's use of any Planet Fitness facility or service (collectively, "Claims") against Planet Fitness, PF Corporate, or anyone acting on their behalf, and hereby agree to defend, indemnify and hold harmless Planet Fitness and PF Corporate from and against any such Claims, including Claims made by my guests. I further understand and acknowledge that neither Planet Fitness nor PF Corporate manufactures fitness or other equipment or products available in its facilities and therefore Planet Fitness and PF Corporate will not be held liable for defective equipment or products.

I understand I am not obligated to sign this agreement and should not do so if there are any unfilled blanks. I understand my right of cancellation and the billing and refund policies. I understand my release of liability, assumption of risk and agreement to indemnify, defend and hold harmless and I have been given the opportunity to review and ask questions related to my use of the facilities, exercise equipment, tanning, message beds/chairs and other equipment, as well as my participation in exercise programs or other services and/or programs offered to members. I agree to comply with Planet Fitness' membership policies and club rules that may be communicated to me from time to time, whether in writing, electronically, through club signage or verbally. Planet Fitness may, in its sole discretion, modify any policy or club rule at any time and from time to time without advance notice. Planet Fitness reserves the right, in its sole discretion, to refund the pro-rated cost of unused services and terminate my membership immediately for violation of any membership policy or club rule or for any other reason not prohibited by applicable law. By signing below, I acknowledge and agree to all of the terms contained on the front and back of this agreement.

The Total Term of Your Membership Is 0 Months.

e-signed 09/17/2021      e-signed 09/17/2021

Member's Signature Date Planet Fitness Authorized Signature Date

**NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ ALL OF IT AND IT IS COMPLETELY FILLED OUT. YOU, THE BUYER, MAY CHOOSE TO CANCEL THIS AGREEMENT AT ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY OF THE HEALTH STUDIO AFTER THE DATE OF THIS AGREEMENT, EXCLUDING SUNDAYS AND HOLIDAYS. TO CANCEL THIS AGREEMENT, MAIL, EMAIL, OR DELIVER A SIGNED AND DATED NOTICE THAT STATES THAT YOU, THE BUYER, ARE CANCELING THIS AGREEMENT, OR WORDS OF SIMILAR EFFECT. THE NOTICE SHALL BE SENT VIA FIRST-CLASS MAIL, VIA EMAIL FROM AN EMAIL ADDRESS ON FILE WITH THE HEALTH STUDIO, OR DELIVERED IN PERSON TO PLANET FITNESS AT 610 Hegenberger Rd Oakland, California 94621 oaklandhegenberger.ca@planetfitness.com.**

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**1. Parties**

Planet Fitness (as previously defined) and you agree that by signing this agreement, you are purchasing a membership or services and agree to all the terms contained in this agreement. The terms "you" and "Planet Fitness" include heirs, estates, agents, representatives, officers, directors, shareholders, managers, members, successors, affiliates, parents, subsidiaries and employees. Both parties make this agreement on behalf of, and it binds, all these included persons and entities. It is your responsibility to notify Planet Fitness of any change in your mailing address, billing information or contact information.

**2. Representations**

A) **Physical Condition & No Medical Advice:** You represent that you are in good physical condition and have no medical reason or impairment that might prevent you from your intended use of Planet Fitness' facilities or services. You acknowledge that Planet Fitness did not give you medical advice before you joined, and cannot give you medical advice after you join. We do not give members advice relating to their physical condition or ability to use the facilities or services, so if you have any health or medical concerns now or after you join, please discuss them with your doctor before using the facilities or services.

B) **Liability for Property:** Neither Planet Fitness nor PF Corporate (as previously defined) is liable to you or your guest for any personal property that is damaged, lost, or stolen while on or around Planet Fitness's premises including a vehicle or its contents or any property left in a locker. If you or your guest cause any damage to Planet Fitness' facilities including equipment, you are liable to Planet Fitness for its cost of repair or replacement.

C) **Entire Agreement & Enforcement:** You acknowledge that neither Planet Fitness, nor anyone else, made any representations or promises upon which you relied that are not stated in this agreement or applicable rider. This document and any applicable rider contains the entire agreement between you and Planet Fitness and replaces any oral or other written agreement. If a court declares any part of this agreement invalid, it will not invalidate the remaining parts, which continue unaffected. If Planet Fitness does not enforce any right in this agreement for any reason, Planet Fitness does not waive its right to enforce it later. This agreement and all physical or electronic copies hereof will be deemed to be valid and authentic and you intend and agree that such copies will be given the same legal effect as the original signed agreement.

**3. Membership**

A) **General:** Your membership permits you to use certain of Planet Fitness' premises, facilities, equipment, digital content, and services. You are required to pay the dues and fees required by this agreement even if you do not use the facilities, equipment, digital content, or services made available to you. Your access and right to use Planet Fitness' premises, facilities, equipment, digital content, and services may be limited, removed, or cancelled as provided for by this agreement or in accordance with applicable law. Your membership is subject to all current company policies, rules, terms, conditions and limitations including, PF Black Card® benefit rules, transferability rules, guest privilege rules, and dress code. Your membership gives you no rights in Planet Fitness, PF Corporate, its management, ownership, property or operation. Planet Fitness may assign or transfer your membership in its sole discretion. You have no right to assign or transfer your membership or this agreement. Planet Fitness can sell memberships at different rates and terms than yours. Any special promotional membership or rate regarding privileges, usage, hours, benefits or facilities is valid only at your home club, unless otherwise provided by Planet Fitness in a signed writing.

B) **Identification:** You must provide a photo to be kept on file for identification purposes, which we may require you to update from time to time, unless prohibited by state or local law.

C) **Group Fitness Instruction (PF@PF®):** Planet Fitness may offer pre-scheduled group fitness instruction from time to time. The number of participants in group sessions may be limited. Group sessions will be made available either on an appointment basis or on a "first come, first served" basis. These classes are strictly informational and instructional in nature and not intended as personal training.

D) **PF Black Card Reciprocal Access:** If you purchase a PF Black Card Membership, there are additional rules and limitations governing reciprocal access, including the requirement to sign in at any visiting (non-home club) location. Reciprocal access is limited to 10 visits per month to a visiting location. Additional fees may apply if you exceed 10 visits to the same visiting club in a month. Each time you visit a club outside of the country in which your home club is located, an additional fee may apply.

E) **PF Black Card Guest Privileges and Other Benefits:** PF Black Card members may bring one guest per day for free to any location. All guests must be 18 years old or at least 13 years old if accompanied by a parent/guardian and must sign in and sign a release of liability and assumption of risk document. Adult guests must present photo identification when signing in. The PF Black Card member must accompany the guest and remain on the premises during the entire visit. PF Black Card guests are not entitled to use tanning or any other PF Black Card benefit or amenity. PF Black Card members must be 18 years old to use the tanning and may not use the tanning facilities more than once any 24-hour period. Tanning may be further restricted by your state and/or local laws, ordinances, and regulations, which include, among other things, require that you: 1) Follow Instructions 2) Avoid over exposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions, repeated overexposure may cause photo aging of the skin, dryness, wrinkling and in some instances skin cancer; 3) Wear protective eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury(ies); and 4) Medications, lotions, cosmetics, and other products may cause your skin to be more sensitive to UV rays, check the posted list of drugs and products known to increase the photosensitivity of the skin, check with your physician if you are unsure about any medications you are taking or if you have had a problem with indoor or outdoor tanning in the past; You agree to abide by all such tanning restrictions when using the tanning equipment at the facility.

F) **Digital Content:** If you purchase a PF+, Classic +, or PF Black Card membership at a participating location, you will be granted access to Planet Fitness's premium digital content, including a PF+ Subscription on the Planet Fitness mobile app during your membership. Your access to, and use of, Planet Fitness's premium digital content, including the PF+ Subscription, is subject to the Terms of Use available at: <https://www.planetfitness.com/mobile/terms-use>. Where the Terms of Use conflict with this membership agreement, the terms of this membership agreement will apply.

G) **PF+ Memberships:** If you purchase a PF+ membership, you are limited to 1 visit per month at your home club.

H) **Transfer of Location:** If you are a monthly member, you can transfer your membership from your home club to another club provided you are current on your monthly dues and have been a member for at least 90 days. Prepaid memberships are not transferable. A transfer fee may apply.

I) **Membership Freeze:** Your membership can be frozen for verified medical reasons only at time of illness, injury or medical condition. Your freeze will be limited to the time indicated as necessary by your physician, up to a maximum of 3 months. Planet Fitness may also, upon notice to you, freeze your membership. Your monthly dues will be automatically reinstated at the end of your freeze and billed to the account on file with Planet Fitness unless you cancel your membership or you are approved for a longer freeze. Please note that you will still be billed for your Annual Membership Fee when it is due, even if your account is frozen.

J) **Non-Discrimination:** Planet Fitness does not tolerate discrimination or harassment of any person on its premises on the basis of race, national origin, ancestry, color, creed, religion, sex, sexual orientation, gender, gender identity, age, disability, or any other basis protected by law. All members will have access to restroom and locker room facilities that correspond to their sincerely held self-

reported gender identity to the extent permitted by applicable law. For more information about our non-discrimination policies, please visit [www.planetfitness.com](http://www.planetfitness.com) or inquire at the front desk.

K) **Changes to Membership Agreement:** Planet Fitness may, from time to time, make changes to this agreement, other than to your guaranteed Monthly Membership Fee. Such revisions will be effective, unless otherwise stated, 30 days after notice. Your continued membership shall constitute acceptance of these changes.

L) **Privacy:** Planet Fitness and PF Corporate collect, use and disclose certain personal information of members in accordance with their Privacy Policies, which are available free of charge upon request. To learn more about what data PF Corporate collects, how that data is used, and what privacy options you may have, please see the PF Corporate privacy policy, which is available at <https://www.planetfitness.com/privacy-policy>. Please review the Privacy Policy before signing this agreement as it contains important information relating to your personal information.

**4. Rules & Regulations**

You agree to follow Planet Fitness' membership policies and club rules, some of which may be found at [www.planetfitness.com](http://www.planetfitness.com). Planet Fitness may, in its sole discretion, modify the policies and any club rule without notice at any time. Club rules vary by location and all signs posted in a club or on the premises and any verbal communication from Planet Fitness shall be considered a part of the club rules. Should you have any questions about our policies and rules, you may inquire at the front desk. Planet Fitness reserves the right, in its sole discretion, to refund the pro-rated cost of unused services and terminate your membership at any time, effective immediately, for violation of any membership policy or club rule or for any other reason not prohibited by applicable law.

**5. Dress Code**

Planet Fitness strives to provide a safe and comfortable environment for all members. As such, Planet Fitness management and staff may enforce, and you agree to abide by, a dress code in all areas of the club. Clothing that may be perceived as intimidating, revealing or offensive, as well as clothing that may present a safety hazard or damage equipment, is not allowed. Protective eyewear for tanning equipment is required at all times. The minimum age for access to the tanning equipment is 18 years of age. Personal protective equipment may also be required.

**6. Account Information Notifications**

Planet Fitness and PF Corporate may contact you via telephone, email, text message or other means from time to time for the purpose of notifying you of issues related to your membership or billing information, for offers that may be of interest to you, or for automatic payment processing issues. By providing us with your contact information and signing this agreement, you give your prior express written consent to receive, at any address or phone number provided to us, membership and billing-related communications from us or our authorized delegate to the extent permitted by applicable law, including without limitation the Telephone Consumer Protection Act and the Fair Debt Collection Practices Act, California Consumer Privacy Act ("CCPA"), California "Shine the Light" Act (California Civil Code § 1798.83), and Cal. Bus. & Prof. Code §17538.41, §17538.43. You acknowledge that calls and text messages may be sent via auto-dialer and that standard message and data rates may apply. You are not required to authorize calls or text messages to become a Planet Fitness® member, and you may opt out at any time by request if called or by replying "STOP" in response to a message.

**7. Facilities & Services**

A) Planet Fitness reserves the right at any time to remove, discontinue, repair or replace the equipment and services available to members without any effect on this agreement. Planet Fitness also reserves the right to make changes to the type or quantity of equipment, programs or services offered to members and to alter the hours of operation in Planet Fitness' sole discretion. Planet Fitness also reserves the right to change the type or quantity of digital content made available to you. You acknowledge and agree that the equipment, programs and services currently available at the facility are subject to change from time to time and are offered on a "first come, first served basis."

B) Planet Fitness regularly closes its facilities (or portions of its facilities) for maintenance or as required by law, on a temporary basis and also closes on selected holidays, etc. and such temporary closures will have no effect on this agreement so long as such temporary closures are reasonable. In the event of a temporary closure of the club that lasts more than fourteen (14) days, Planet Fitness may freeze your membership. Monthly Membership Fees will not be billed during the freeze, unless you are a PF+, Classic +, or PF Black Card member (in which case a portion of your Monthly Membership Fees may continue to be billed, as described below). You will receive a credit towards your next Monthly Membership Fee for the period of time during which your membership was frozen due to the closure during the previous billing cycle if the period exceeds fourteen (14) consecutive days. For example, if your membership is frozen due to a closure for half of the month, you would receive a credit equal to half of the prior month's Monthly Membership Fee, less any amount billed in exchange for continued membership benefits and perks (as described below). If your home club is permanently closed, moved or sold, or in the event of a temporary closure, Planet Fitness reserves the right to assign and transfer your membership to another club within 8 miles of your home club, in accordance with your rights under applicable law as set forth in Section 9 below.

C) In the event that your home club is closed for more than 14 days and you are a PF+, PF Black Card or PF Classic + member at a club offering premium digital content, Planet Fitness may temporarily reduce your Monthly Membership Fees to \$ 0.00 per month in exchange for your continued access to membership benefits and perks, including your access to premium digital content, partnership discounts and other membership benefits. If this occurs, you will have the option to decline this offering and freeze your membership by notifying Planet Fitness, which will cause you to, during the freeze, lose access to Planet Fitness's premium digital content. When your home club reopens following such a closure, billing of your full Monthly Membership Fees will resume.

D) In the event Planet Fitness discontinues its premium digital content offers, Planet Fitness may, upon notice to you, convert your membership to a membership type that does not include digital access, unless prohibited by state or local law.

**8. Dues, Fees, Charges & Taxes**

A) **Payment Authorization:** You have full control over the payment authorization and can stop it at any time by notifying Planet Fitness as set forth on the front page of this agreement. You are responsible for notifying your bank or credit card company of any error that appears on your statement in a timely manner. You must notify Planet Fitness within 60 days of a claimed error on your statement.

B) **Charges & Taxes:** Planet Fitness has the right to add to your prepaid dues or to your monthly dues any applicable tax imposed by the government as well as any utility charges or surcharges related to the facility.

**9. Cancellation Rights (Buyer's Rights)**

(A) **Your 5-Day Cancellation Right:** You, the buyer, may cancel this agreement at any time prior to midnight of the fifth business day of the health studio after the date of this agreement, excluding Sundays and holidays. To cancel this agreement, mail or deliver a signed and dated notice that

states that you, the buyer, are canceling this agreement in words of similar effect. The notice shall be sent via first-class mail, via email from an email address on file with the health studio, or delivered in person to: Planet Fitness, 610 Hegenberger Rd Oakland, California 94621 or oaklandhegenberger.ca@planetfitness.com. Planet Fitness will refund all the money you paid, including your start up fees, within 10 days of when Planet Fitness receives written notice in the manner described above.

(B). Cancellation Rights & Refund: Prepaid dues, startup fees and annual fees are nonrefundable, except for 5-day cancels above or unless specifically stated otherwise below. You may cancel this agreement if there is a minimum term or if prepaid and receive a refund of unused prepaid dues if you qualify as follows: (B)(1). You Are Disabled or You Die: Your disability must physically prevent you from using the club's facilities and a licensed physician must verify this fact in writing. In case of death, your estate must provide written evidence. In either case, Planet Fitness will refund any unused prepaid dues and a pro rata refund of your start up fees if you are entitled to cancel within your initial term.

(B)(2). You Move: Your move must be more than 25 miles from your club and Planet Fitness is unable to transfer your membership to another facility within 25 miles of your new residence. You must provide written evidence of your move. If there is another club within 25 miles of your new residence, your membership will be transferred to that club and you are not entitled to a refund. If Planet Fitness is unable to transfer your membership, Planet Fitness will refund your unused prepaid dues or cancel your term membership and deduct a move fee of \$50.

(B)(3). New Facility: If you pay any money under this agreement for a facility that has not yet opened for business, you have the right to cancel this agreement and receive a full refund at any time prior to midnight of the fifth business day after the date the facility opens for business. We will refund you within 10 days of receipt of notice of cancellation.

(B)(4). Notice & Effective Date: You (your estate) must send written notice and proof of the event within 30 days after it happens. Cancellation is effective as of the date of the event. If your notice is late or lacks proof, Planet Fitness may set the effective date when Planet Fitness receives the notice. Such notice shall be sent to: Planet Fitness, 610 Hegenberger Rd Oakland, California 94621 or oaklandhegenberger.ca@planetfitness.com.

(C) Cancellation Rights for Agreements \$1,500.00 and Over.

(C)(1). Nothing in this section shall apply to an agreement for \$1,499.99 or less. (C)(2). If your agreement requires payment of one thousand five hundred dollars (\$1,500) to two thousand dollars (\$2,000), inclusive, including initiation fees or initial membership fees, you have the right to cancel the agreement within 20 days after the agreement is executed.

(C)(3). If your agreement requires payment of two thousand one dollars (\$2,001) to two thousand five hundred dollars (\$2,500), inclusive, including initiation fees or initial membership fees, you have the right to cancel the agreement within 30 days after the agreement is executed.

(C)(4). If your agreement requires payment of two thousand five hundred and one dollars (\$2501) or more, including initiation fees or initial membership fees, you have the right to cancel the agreement within 45 days after the agreement is executed.

(C)(5). If you are entitled to cancel under this Section 9(c), you shall be liable only for that portion of the total agreement payment, including initiation fees and other charges however denominated, that has been available for your use, based upon a pro rata calculation over the term of the agreement. The remaining portion of the agreement payment shall be returned to you by Planet Fitness.

**10. Limitation of Liability**  
Unless controlling legal authority requires otherwise, any award by an arbitrator or a court is limited to actual compensatory damages. Specifically, neither an arbitrator nor a court can award either party any indirect, special, incidental, consequential or punitive damages, even if one party told the other party that they might suffer these damages.

**11. Corporate Memberships**  
If you are participating in a corporate membership program, you grant Planet Fitness the right to verify your eligibility for the program (including the right to verify your employment status, if applicable). If the program or your eligibility for the program terminates, Planet Fitness may immediately terminate your membership and/or require you to pay the applicable Monthly and Annual Membership Fees in order to continue your membership.

**12. Binding Individual Arbitration and Class Action Waiver**  
In the unlikely event that Planet Fitness and/or PF Corporate is unable to resolve a complaint you may have to your satisfaction (or is unable to resolve a dispute with you after attempting to do so informally), subject to your right to opt-out below, you, Planet Fitness and/or PF Corporate each agree to resolve such disputes through binding arbitration or small claims court rather than a court of general jurisdiction. Arbitration utilizes a neutral arbitrator instead of a judge or jury and the procedures are generally simpler and more limited than those applicable to a lawsuit in court. Arbitration is subject to limited review by courts, but an arbitrator can award the same damages and remedies that a court can award in the process. This arbitration provision is a dispute resolution provision and shall be broadly construed to mean any dispute, claim, controversy between you and Planet Fitness or PF Corporate, including any dispute, claim, or controversy arising from or relating to your membership, this agreement, your access to or use of a Planet Fitness club, or your access to and use of any Planet Fitness digital content, whether based in contract, tort, warranty, regulation, statute, or any other legal or equitable basis.

**A) Class Action Waiver.** To the fullest extent permitted by law, you, Planet Fitness and PF Corporate acknowledge and agree that you and we each are waiving the right to a trial by jury and the right to participate in a class action, either in court or in arbitration. This means that neither you, Planet Fitness or PF Corporate may join claims in arbitration with or against other members, or litigate in court or arbitrate any claims as a representative or member of a class and that the arbitrator may not consolidate any claims into a class proceeding. However, if this class action waiver is held unenforceable as to all or some parts of a dispute, to the extent that any claims must proceed on a class, consolidated, or representative basis, such claims must be litigated in the state or federal courts of the state in which your home club is located and not in arbitration, with any remaining parts proceeding in individual arbitration.

**B) Arbitration Exceptions.** Nothing in this arbitration provision shall prevent you, Planet Fitness or PF Corporate from: (i) bringing an individual action in small claims court if the dispute is within the jurisdiction of that court, or (ii) pursuing an available enforcement action through any local, state, or federal governmental agency. For any disputes not subject to mandatory arbitration under this section, you agree to submit the dispute to the exclusive jurisdiction of the state or federal courts of the state in which your home club is located for resolution, and you further irrevocably waive any right you may have to trial by jury in any such action or proceeding.

**C) Arbitration Rules.** The Federal Arbitration Act, 9 U.S.C. § 1 et seq. shall govern the interpretation and enforcement of this arbitration provision. For simplicity and fairness, arbitration will be conducted on an individual basis before a single arbitrator in accordance with the then current American Arbitration Association's Consumer Arbitration Rules ("AAA Consumer Rules"), available at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. The arbitrator, and not any local, state, or federal court, shall have the exclusive authority to determine all issues regarding the interpretation, applicability, and enforcement of this agreement and all issues regarding the arbitrability of the dispute, including but not limited to any claim that all or part of this arbitration provision is void or voidable. The arbitrator is authorized to issue any and all remedies authorized by law. The decision of the arbitrator shall be final and the arbitration award enforceable by any court with jurisdiction over the parties. In the event of a conflict between the terms of this arbitration provision and the AAA Consumer Rules, the terms of this arbitration provision shall control unless the arbitrator determines that the application of any inconsistent arbitration provision terms would result in a fundamentally unfair arbitration. You, Planet Fitness and PF Corporate agree that the arbitration will be kept confidential and that the existence of the proceeding and any element of it (including, without limitation, any pleadings, briefs or other documents submitted or exchanged and any testimony or other oral submissions and awards) will not be disclosed beyond the arbitration proceedings, except as may lawfully be required in judicial proceedings relating to the arbitration, compelled by a court of competent jurisdiction following service of a subpoena and prior notice to you, Planet Fitness or PF Corporate, or as mandated by applicable disclosure rules and regulations of securities regulatory authorities or other governmental agencies. This arbitration provision shall survive termination of this agreement or your membership with Planet Fitness for any reason.

**D) Arbitration Procedures.** You and Planet Fitness and/or PF Corporate agree to attempt initially to solve all disputes subject to arbitration by conducting good-faith, informal negotiations. Before commencing arbitration, the party seeking arbitration must provide the other party with written notice of the dispute that includes: (i) the name, mailing address, and email and/or phone number of the party giving notice; (ii) a detailed description of the dispute; and (iii) the relief sought. Your written notice must be sent via certified mail or by any nationally recognized delivery service (e.g. UPS, Federal Express, etc.), or by hand delivery to either: (A) 610 Hegenberger Rd Oakland, California 94621 or oaklandhegenberger.ca@planetfitness.com. (if notice is being sent to Planet Fitness) or (B) Planet Fitness, Attn: Legal Department, 4 Liberty Lane West, Floor 2, Hampton, New Hampshire 03842 (if notice is being sent to PF Corporate). Planet Fitness's or PF Corporate's written notice will be sent to you via the contact information we have in our records for you. You, Planet Fitness and PF Corporate agree to use good-faith efforts to attempt to resolve the dispute within thirty (30) days from the date the notice of the dispute is sent. If you and Planet Fitness or PF Corporate do not reach agreement on resolving the dispute within those thirty (30) days, the party seeking arbitration may commence arbitration in accordance with the AAA Consumer Rules. Any in-person arbitration hearings will take place in the county (or other municipality) where your home club is located, unless the parties agree to a different location.

**E) Arbitration Fees.** Planet Fitness or PF Corporate will pay, or if applicable, reimburse you for all AAA filing, administration, and arbitrator fees and expenses for any arbitration commenced by you or us. Notwithstanding the foregoing, nothing herein shall limit the arbitrator's discretion to allocate compensation, expenses, and fees in accordance with Rule R-44(c) of the AAA Consumer Rules.

**F) Opt-Out.** You may reject this arbitration provision by sending written opt-out notice to us. The opt-out notice must be sent no later than thirty (30) days after you sign this agreement. You must send written notice via email to [oaklandhegenberger.ca@planetfitness.com](mailto:oaklandhegenberger.ca@planetfitness.com) or by mail to 610 Hegenberger Rd Oakland, California 94621. The opt-out notice must include: (i) your name, (ii) your mailing and email address, and (iii) your request to be excluded from this mandatory arbitration provision. Your rejection of this arbitration provision shall have no effect on the remaining provisions of this agreement.

**G) Public Injunction.** Nothing in this arbitration provision shall be construed as a waiver of your right to pursue a public injunction under California law to the extent you have standing to bring such a claim.

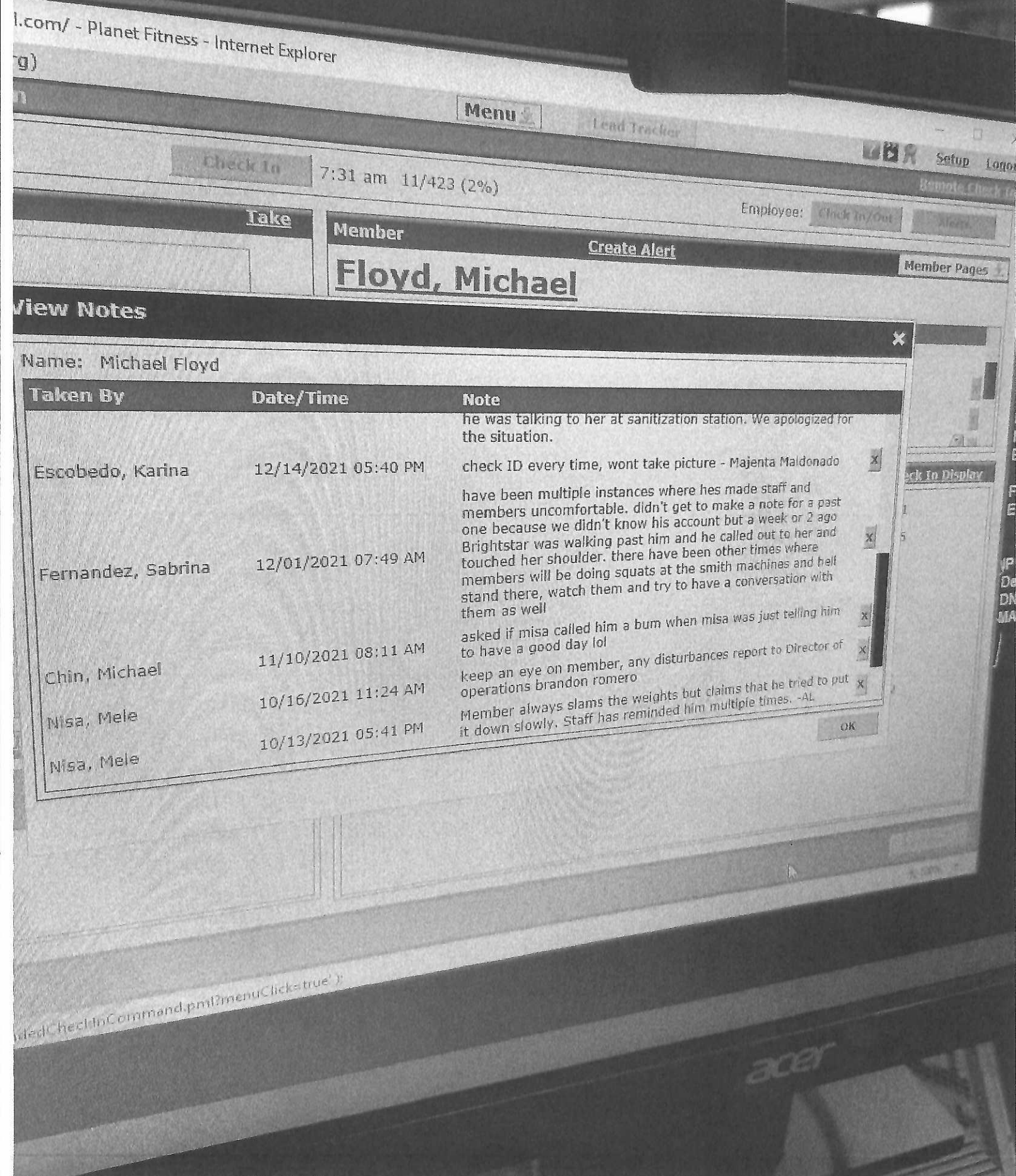
**Collection of Your Personal Information.** ABC collects information about you that is provided in conjunction with your purchase of services from one of ABC's health club clients, including information provided on your health club membership agreement(s) and personal training agreement(s). Information about you is typically obtained from the agreement you sign with the club from whom you purchase services. Your personal information may also be collected from you when you provide information directly to ABC in any manner, or when you update account or contact information at the club or online. The information ABC collects about you may include your name, postal address, email address, phone numbers, bank account or credit card information, audio recordings of phone calls with you or made in relation to your account, photographs voluntarily taken at the club, and e-mail correspondence with you or in relation to your account. ABC collects such personal information about you for the purpose of processing and collecting payments owed by you to the club, to contact you in relation to your health club account, and to otherwise provide third party payment processing and administrative services to your club. ABC uses information it collects to communicate with health club members, collect payments owed to its health club clients, and maintain up to date account information for members. ABC's Privacy Policy is available at <https://www.abcfinancial.com/privacy-policy/>.

This club maintains compliance with the state law registration and bond requirements of Cal. Civ. Code §1812.96.

© 2020 PLANET FITNESS FRANCHISING LLC  
Last Updated: [October 30, 2020]  
4837-1171-9868, v. 1

## **EXHIBIT 6**

Picture of the computer screen at Planet Fitness with notes on Michael Floyd. The picture was taken by Floyd on December 30, 2021 at Planet Fitness of Oakland, CA on Hegenberger Rd.



Planet Fitness - Internet Explorer

Menu

Lead Tracker

Setup Logout

Check In

7:31 am 11/423 (2%)

Employee:

Clock In/Out

Remote Check In

Take

Member

Create Alert

Member Pages

**Floyd, Michael**

w Notes

ne: Michael Floyd

aken By	Date/Time	Note
aldonado, Majenta	12/29/2021 03:59 PM	Member needs to reach out to corporate to discuss being banned.
aldonado, Majenta	12/29/2021 03:57 PM	Member has been cancelled out. This is due to the notated incidents plus the multiple incidents that he has caused at the Fremont and Hayward locations. He is banned from ALL PF locations.
Maldonado, Majenta	12/20/2021 05:12 PM	Member stopped a member at sanitization station and was talking to her. She let him know the convo was done. She walked to front making it clear she was uncomfortable and purchased a lock. He stood there staring at her. We asked him if he needed help, he said no, I am talking to her. We let him know she was done talking. We asked him to leave. He insisted on staying and said stop with this uncomfortable bullshit and started yelling at myself and Majenta. I told him he needs to leave and my manager would be contacting him. He left and the member thanked us and let us know she told him to leave when he was talking to her at sanitization station. We apologized for the situation.

OK

dedCheckInCommand.pml?menuClick=true ;

acer

## **EXHIBIT 7**

Gmail conversation between Michael Floyd sending notice to Brandon Saber attempting to obtain the video surveillance evidence from Planet Fitness. Repeated requests with no response from Brandon Saber.



Michael Floyd &lt;mdf3039@gmail.com&gt;

---

**Video Evidence Needed from San Jose Planet Fitness Saratoga**

1 message

---

**Michael Floyd** <mdf3039@gmail.com>

Fri, Oct 29, 2021 at 4:24 PM

To: brandon.saber@outlook.com, sanjosesaratoga.ca@planetfitness.com

Hello. This is Michael Floyd. I am a black card member of Planet Fitness. I have used the facilities of Planet Fitness in San Jose on Saratoga Avenue. On August 18, 2021, I was involved in an incident with another person in the parking lot. The time this would have occurred was between 6:00 PM and 11:00 PM. If possible, can I receive a copy of the video surveillance from this time period? It would be greatly appreciated. It would also help expose the truth. If preferred, I can also submit a subpoena for the evidence, but I would prefer to receive it without the courts coming into the matter. I have been told the surveillance is stored in the cloud. I am glad it is.

--  
Michael Floyd, MS



Michael Floyd &lt;mdf3039@gmail.com&gt;

---

**Video Evidence Needed from San Jose Planet Fitness Saratoga**

1 message

---

**Michael Floyd** <mdf3039@gmail.com>

Wed, Nov 10, 2021 at 9:35 AM

To: brandon.saber@outlook.com, sanjosesaratoga.ca@planetfitness.com

Hello. This is Michael Floyd. I am a black card member of Planet Fitness. I have used the facilities of Planet Fitness in San Jose on Saratoga Avenue. On August 18, 2021, I was involved in an incident with another person in the parking lot. The time this would have occurred was between 6:00 PM and 11:00 PM. If possible, can I receive a copy of the video surveillance from this time period? It would be greatly appreciated. It would also help expose the truth. If preferred, I can also submit a subpoena for the evidence, but I would prefer to receive it without the courts coming into the matter. I have been told the surveillance is stored in the cloud. I am glad it is.

--  
Michael Floyd, MS



Michael Floyd &lt;mdf3039@gmail.com&gt;

**URGENT:: Video Surveillance Planet Fitness Saratoga**

1 message

Michael Floyd &lt;mdf3039@gmail.com&gt;

Mon, Nov 22, 2021 at 3:23 PM

To: brandon.saber@outlook.com

Hello Brandon. This is Michael Floyd. I am concerned with the video surveillance of the outside parking lot from the incident occurring on August 18th, 2021. If at all possible, please let me know once you have retrieved it. I have filed a subpoena for it, so I am hoping you can deliver it to the courthouse before the deadline. If not, then I can pick it up wherever you are. This video recording will shed light on the truth of the incident. Please give me a call at (713)562-7229. Looking forward to the truth being presented.

--  
Michael Floyd, MS

## **EXHIBIT 8**

Gmail conversation between Michael Floyd sending notice to Brandon and Planet Fitness of Oakland about the incidents occurring December 22, 2023.



Michael Floyd &lt;mdf3039@gmail.com&gt;

**Recent problems with membership**

1 message

**Michael Floyd** <mdf3039@gmail.com>

Fri, Dec 31, 2021 at 3:16 PM

To: brandon.saber@outlook.com, oaklandhegenberger.ca@planetfitness.com

It has come to my attention that the staff in Planet Fitness facilities have kept tabs on me. Staff from Planet Fitnesses have reported problems in their systems yet have informed me of no problems. I appeared like every small issue would be reported against me and no one notified me of issues. No one, neither a gym member nor a staff employee, has informed me of any problems. What I have been informed is there were minor issues like slamming weights (which I lessen once requested to prevent). I was informed recently I touched a staff member a month ago on the shoulder. It seems crazy to say that was a problem, especially when no one told me this was a problem. No one has also informed me I caused problems by talking to women. The women at the gyms have not told me there were problems. I find the list of complaints to be ridiculous, especially since I was not informed I have caused problems. The encounter with your staff member on the 22nd of December was your staff member fabricating events. When a Planet Fitness member was about to buy a lock, I was attempting to pay for it, when Majenta then told me I was making the woman feel uncomfortable. The Planet Fitness member never expressed to me she was feeling uncomfortable. The Planet Fitness member also did not express to Majenta she was feeling uncomfortable nor made any movements to indicate she was uncomfortable.

Bottom line, I will take legal measures against Planet Fitness to ensure you never do anything like this to anyone else. I feel these incidents are solely caused by race problems. Unless you give me a call or email back, you will see the businesses sued. I have tried emailing you for months and have not received any response.

My contact information is (713)562-7229 and email is mdf3039@gmail.com

--  
Michael Floyd, MS

SUMMONS  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):  
Planet Fitness of Oakland, CA

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):  
Michael Devin Floyd

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED  
Superior Court of California  
County of Alameda  
07/03/2023  
Chad Finke, Executive Officer / Clerk of the Court  
By: D. Oliver Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): René C. Davidson Courthouse  
1225 Fallon Street, Oakland, CA 94612

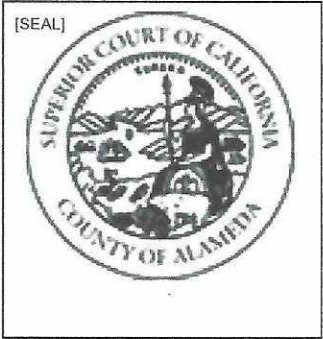
CASE NUMBER  
(Número del Caso)

23CV037550

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Michael Devin Floyd, 1214 Mount Hermon Rd, Scotts Valley, CA 95066, (713)562-7229, [mdf3039@gmail.com](mailto:mdf3039@gmail.com)

DATE: 07/03/2023 Clerk, by D. Oliver, Deputy  
(Fecha) Chad Finke, Executive Officer / Clerk of the Court (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</b>		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		<b>FILED</b> Superior Court of California County of Alameda 07/03/2023
PLAINTIFF: Michael Devin Floyd		Clad Flake, Executive Officer/Clerk of the Court
DEFENDANT: Planet Fitness of Oakland, CA		By: <u><i>D. Oliver</i></u> Deputy D. Oliver
<b>NOTICE OF CASE MANAGEMENT CONFERENCE</b>		CASE NUMBER: 23CV037550

TO THE PLAINTIFF(S)/ATTORNEY(S) FOR PLAINTIFF(S) OF RECORD:

You are ordered to serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (Cal. Rules of Court, 3.110(b)).

Give notice of this conference to all other parties and file proof of service.

Your Case Management Conference has been scheduled on:

Date: 11/15/2023	Time: 3:00 PM	Dept.: 512
Location: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		

TO DEFENDANT(S)/ATTORNEY(S) FOR DEFENDANT(S) OF RECORD:

The setting of the Case Management Conference does not exempt the defendant from filing a responsive pleading as required by law, you must respond as stated on the summons.

TO ALL PARTIES who have appeared before the date of the conference must:

Pursuant to California Rules of Court, 3.725, a completed Case Management Statement (Judicial Council form CM-110) must be filed and served at least 15 calendar days before the Case Management Conference. The Case Management Statement may be filed jointly by all parties/attorneys of record or individually by each party/attorney of record.

**Meet and confer**, in person or by telephone as required by Cal. Rules of Court, rule 3.724.

**Post jury fees** as required by Code of Civil Procedure section 631.

If you do not follow the orders above, the court may issue an order to show cause why you should not be sanctioned under Cal. Rules of Court, rule 2.30. Sanctions may include monetary sanctions, striking pleadings or dismissal of the action.

The judge may place a Tentative Case Management Order in your case's on-line register of actions before the conference. This order may establish a discovery schedule, set a trial date or refer the case to Alternate Dispute Resolution, such as mediation or arbitration. Check the court's eCourt Public Portal for each assigned department's procedures regarding tentative case management orders at <https://portal.alameda.courts.ca.gov>.

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</b>		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		<b>FILED</b> Superior Court of California County of Alameda 07/03/2023 Chad Finke, Executive Officer / Clerk of the Court By: <u><i>D. Oliver</i></u> Deputy D. Oliver
PLAINTIFF/PETITIONER: Michael Devin Floyd		
DEFENDANT/RESPONDENT: Planet Fitness of Oakland, CA		
<b>CERTIFICATE OF MAILING</b>		CASE NUMBER: 23CV037550

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Michael Devin Floyd  
1214 Mount Hermon Rd  
Scotts Valley, CA 95066

Dated: 07/06/2023

Chad Finke, Executive Officer / Clerk of the Court

By:

*D. Oliver*

D. Oliver, Deputy Clerk

**CERTIFICATE OF MAILING**

**ASSIGNED FOR ALL PURPOSES TO**  
**JUDGE Eumi Lee**  
**DEPARTMENT 512**

All parties are expected to know and comply with the Local Rules of this Court, which are available on the court's website at [http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules\(1\)](http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules(1)) and with the California Rules of Court, which are available at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processed (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days." The court's website contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

#### COURT RESERVATIONS

The use of the Court Reservation System (CRS) is now mandated in many civil courtrooms within the Alameda County Superior Court. Instead of calling or emailing the courtroom to make a reservation, parties with a case assigned to a courtroom using CRS are directed to utilize CRS to make and manage their own reservations, within parameters set by the courtrooms. CRS is available 24 hours a day, seven days a week and reservations can be made from a computer or smart phone. Please note, you are prohibited from reserving more than one hearing date for the same motion.

Prior to scheduling any motion on CRS, including any Applications for Orders for Appearance and Examination, or continuing any motion, please review the online information (if any) for the courtroom in which you are reserving. There may be specific and important conditions associated with certain motions and proceedings. Information is available on the court's eCourt Public Portal at [www.eportal.alameda.courts.ca.gov](http://www.eportal.alameda.courts.ca.gov).

Chad Finke, Executive Officer / Clerk of the Court



By

D. Oliver, Deputy Clerk

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</b>		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		<b>FILED</b> Superior Court of California County of Alameda 07/03/2023 Clad Flake, Executive Officer/Clerk of the Court By: <u><i>D. Oliver</i></u> Deputy D. Oliver
PLAINTIFF(S): Michael Devin Floyd		
DEFENDANT(S): Planet Fitness of Oakland, CA		
<b>NOTICE OF CASE ASSIGNMENT</b>		CASE NUMBER: 23CV037550

**THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:

ASSIGNED JUDGE: Eumi Lee  
DEPARTMENT: 512  
LOCATION: Hayward Hall of Justice  
24405 Amador Street, Hayward, CA 94544  
PHONE NUMBER: (510) 690-2721  
FAX NUMBER:  
EMAIL ADDRESS: Dept512@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedures section 170.6 must be exercised within the time period by law. (See Code of Civ. Proc. §§ 170.6, subd. (a.)(2) and 101.3)

NOTICE OF NONAVAILABILITY OF COURT REPORTERS: Effective June 4, 2012, the court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). Parties may arrange and pay for the attendance of a certified shorthand reporter. In limited jurisdiction cases, parties may request electronic recording. Amended Local Rule 3.95 states: "Except as otherwise required by law, in general civil case and probate departments, the services of an official court reporter are not normally available. For civil trials, each party must serve and file a statement before the trial date indicating whether the party requests the presence of an official court reporter."

**GENERAL PROCEDURES**

Following assignment of a civil case to a specific department, all pleadings, papers, forms, documents and writings can be submitted for filing at either Civil Clerk's Office, located at the Rene C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California, 94612, and the Hayward Hall of Justice, 24405 Amador Street, Hayward, California, 94544 and through Civil e-filing. Information regarding Civil e-filing can be found on the courts website. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following: